University of Alberta

An Alternative Approach to Canadian Foreign and Security Policy In a Post 9-11 World

by

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A thesis submitted to the Faculty of Graduate Studies and Research
in partial fulfillment of the requirements for the degree of

Master of Arts

Department of Political Science

Edmonton, Alberta
Fall 2007

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395, rue Wellington
Ottawa ON K1A 0N4
Canada

Your file Votre référence
ISBN: 978-0-494-33147-7
Our file Notre référence
ISBN: 978-0-494-33147-7

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Canada

Abstract

This work is an examination of, and call to re-formulate Canadian strategies within three current areas in Canadian Security and Foreign policy, ie. Counter-Terrorism, Foreign Aid, and the issue of Canadian sovereignty in the Northwest Passage. The underlying purpose of this work is to, using the framework of leadership-fellowship theory, try to utilize these three policy areas to help attain greater security for Canada in a post 9-11 world through soft-power or diplomatic and policy-making alternatives, rather than relying on strictly hard power alternatives which Canada is embarrassingly incapable of wielding on the international stage in the early years of this twenty-first century.

Acknowledgements

I would like to acknowledge the thoughtful, cogent and consistent guidance of my advisor, Dr. Tom Keating throughout the long and arduous process of writing and revising this thesis. I would also like to state that any errors, omissions, or failings of theory or thought contained within this work are strictly the fault of the author, and not in any way associated with Dr. Tom Keating.

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Introduction

The post-9/11 era has undoubtedly posed several challenges to Canadian foreign policy. The fact that Canada shares a lengthy border with the American hegemon – arguably, the primary global target for terrorism – complicates our security agenda more than many other nations in the world. At the same time, as a result of either misplaced or unclear foreign policy objectives, Canada is seen to be 'fading' as an influential player in the international arena, even in such traditionally vaunted areas as foreign aid (Hillmer and Appel Molot). Furthermore, Canadian sovereignty itself is continuing to come under increasingly heavy fire in the north as a result of the progressive thawing, and increasing commercial viability of the Northwest Passage. As a result of these current pressing international issues, it is imperative that Canada strive to formulate a coherent foreign policy framework that will allow us to address each of these issues with clarity.

The primary issue this paper will address is security. Pre-9/11, most nations were pre-disposed to view security in the context of threats from other states. Thus Canada's close proximity and strategic alliances with the American military complex, and cooperation with its foreign policy objectives seemed like an adequate response to most security challenges that Canada might have faced. However, in the wake of the terrorist attacks on September 11, 2001, non-state actors have brought a new, unique dimension to the issue of state security. As a result, we must be willing to embrace alternative solutions to these current issues by examining new policy options, or, as we will do in

this paper, attempt to re-create existing policies so that they are more security oriented.

There are a number of reasons why Canada stands to become a target of terrorism. These include general Canadian support for most U.S. policies, the fact that we also pursue similar blatantly self-interested policies ourselves, and finally, our similar embrace of western Christian values. Although it would be fitting to examine the extent that western Christian values currently influence and ought to influence Canadian foreign policy, this thesis will primarily examine the extent that Canada should support American policies and policies of self-interested 'zero-sum' gains, especially if such actions potentially undermine our security as a nation.

I propose to argue that, as Canadians, we must formulate a security policy that is based on both Canadian and internationalist interests, and without fear of serious American retribution for non-conformity with American Foreign Policy. One of the major areas of concern for Canadian security is the prevailing issue of terrorism; there is little doubt that Canada needs to form a hard-line of defence against the possibility of terrorist attacks in order to protect our own citizens as well as our vital economic interests. Sharing a common border with the United States makes working on a bilateral basis against terrorism an undeniable and utmost necessity, both for our own security as well as to help secure Canada's economic relationship with the United States in the event of any future terrorist attacks in either country. However, I will also examine alternative approaches to a more independent security policy for Canada by postulating certain policy objectives within the areas of humanitarian aid and Arctic sovereignty, that are designed to help place Canada in a position where the threat of terrorism is decreased,

and Canadian security is increased by way of re-crafting Canada's world image. Canada needs to form an international image that is distinct from the American hegemon – an image that is more internationalist in nature, and viewed as a fair and friendly liaison between the North and the South. Not only will increasing Canadian humanitarian aid serve this purpose, it also can also serve to provide human security and global stability in the current volatile global arena. In addition, Canada's Northwest Passage has been an issue of international debate as to its status as an international strait. By securing our northern waters before the passage fully opens, in spite of American opposition, Canadian foreign policy stands to gain an increased in legitimacy as a state that is willing and able to take a definitive legal stand against American pressures, thus reducing our chances of becoming a primary target of terrorism.

This thesis will be written using leadership-fellowship theory as its foundation. This theoretical perspective stresses that theory-building must "place much more emphasis on the complex and nuanced interplay of the agent-structure relationship and on the leadership capabilities and policymaking functions of foreign policymaking personnel and institutions in a large number of states" (Cooper, Higgott and Nossal 14). Essentially, this theory suggests that numerous factors modify and constrain the structures of anarchy, as opposed to neo-realist theory which simply assumes these factors to be a given (Cooper, Higgott and Nossal 14). This assumption, coupled with the continually evolving forces of globalization as well as factors associated with increasing state interdependence have "provided new windows of opportunities (or, perhaps more accurately, new windows of necessity) for middle powers" (Cooper, Higgott and Nossal

21).

Indeed, two other factors have occurred which "reinforce the ability and willingness of middle powers to adopt a more activist, initiative-oriented approach in the international arena" (Cooper, Higgott and Nossal 21). The first is the change in the global agenda; the shift from 'high' policy issues of 'international relations" to 'low' policy issues such as economic security and social concerns such as environmental policy and human rights. Although current global security events such as the recent focus on global terrorism might have caused a slight shift back towards the 'high' policy issues post 9-11, this original shift has seems to have "altered perceptions and definitions of national interest. The 'security agenda,' for example, took on a wider meaning in international relations generally" (Cooper, Higgott and Nossal 21). Furthermore, "a second significant factor impelling middle power activism is the accentuated intermeshing of domestic politics with foreign policy. With low issues increasingly in command, internal societal forces have been more involved in 'domestic' issues having international ramifications and in those 'international' issues which spill over in the national arena", creating, as Putnam would have it, a sort of two-level game (Cooper, Higgott and Nossal 22). In this thesis I will suggest that Canada must be cognizant of this two-level game, and attempt to fashion a foreign and security policy that is both aware of and utilizes this knowledge.

It seems apparent that "middle power leadership and initiative-taking have been based, not as much on coercion or brute strength, nor is it based on the economic capability of the country. Rather, "middle power leadership and initiative-taking have been based on non-structural forms of power and influence associated with the

imaginative and energetic use of their diplomatic capabilities" (Cooper, Higgott and Nossal 23). As a result, "the skills they have utilized are not those of a giant but of a good dancer" (Cooper, Higgott and Nossal 24). In keeping with such language, it is thus the goal of this paper to help try to choreograph what might be some of Canada's next dance steps on the international stage.

The first chapter of this thesis will be devoted to a brief analysis of the psyche of the Canadian-American relationship. I will examine some of the primary motivators of American and Canadian foreign policy in order to identify the intrinsic, fixed commonalities in areas such as ideology, economy, and security that underpin and bind the Canada-U.S. relationship. I will move on to analyze a number of cases in which western industrialized nations have strayed from and even directly challenged American policies in order to gain an understanding of the repercussions of such actions on these states. Furthermore, I will examine the ongoing American crisis of legitimacy in order to stress the idea that the United States *needs* Canada in its corner to help provide at least some semblance of legitimacy on the world stage. This chapter concludes with the realization that Canada can afford to diverge somewhat from American policy objectives in order to both distance itself from American policies that may serve to nurture global discontent and terrorism, and pursue policy objectives that re-define the Canadian image in the world with the intention of both decreasing the risk of terrorism in our country. This type of action will further legitimize the Canadian position on the international stage, thus providing the United States with an increasingly valuable source of legitimacy, but only at our discretion.

This concern with legitimizing certain specific American policies is not to establish Canada as a 'stakeholder' in securing American global hegemony and perpetuating American policies. Although Mark Neufeld suggests that the United States is dependent on "second-tier core states such as Canada fulfilling their functions as legitimizers" (Neufeld[b] 112) by way of "assimilating and domesticating potentially dangerous ideas by adjusting them to the policies of the dominant coalition" (cited in Neufeld[b] 102), such a position would link Canada far too closely to the United States, both in actions and rhetoric, thus compromising our image and security. My concern with legitimization of certain specific American policies is simply for the purpose of maintaining Canada's value in the eyes of American foreign policymakers while attempting to create a clear distinction in the images of the two countries. Instead of either wholly supporting or consistently criticizing American policies, Canada would be willing to provide legitimacy for American policy only if they fall in line with more internationalist Canadian interests and objectives. While the legitimacy that Canadian support could provide would undoubtedly be valued by the United States, we cannot expect it to be enough of a motivator to alter American foreign policy directives in any fundamental way. However, by illustrating that Canada is willing to stand on its own despite American pressures, while demonstrating a willingness to support American objectives that are more internationalist or globally beneficial, Canada stands to both separate itself from the repercussions of blatantly negative American policies, while still benefiting from a more-or-less friendly relationship with the United States.

The second chapter examines the primary challenge to Canadian security –

terrorism. I will begin with a brief description of the terrorist threat that has become increasingly apparent since the attacks on the American world trade centre and the Pentagon in 2001. I will move on to discuss the impact that these recent terrorist acts have had on perceptions of security in the global north, and the counter-terrorism measures that have been taken by a number of these countries. I will examine the threats that Canada faces: the threat of terrorist attacks on Canadian soil, the possible repercussions of terrorists using Canada to gain access to American targets, and the probability of future attacks generating costly border closures like those of 2001. Finally, I will look at a number of Canadian counter-terrorism and security policies in terms of effectiveness, and continued viability.

After a brief analysis of what Canada has done to shore up security post 9/11, I will move on to address two alternate foreign policy objectives that may provide additional measures of security from international terrorist threats by strengthening the Canadian image abroad through foreign aid, and directly challenging the American position on Canadian sovereignty in the Arctic.

The third chapter of this thesis will be devoted to issue of foreign aid reform for the purpose of both Canadian image enhancement and global security. While tightening and improving all aspects of security, and enhancing the ability of police to track suspected terrorist in our own country is unquestionably vital, reducing our nation's profile in the sight of terrorist groups is likely just as important in the mission to provide a comprehensive security agenda for Canadians. Enhancement, or the reformulation of the Canadian image abroad is a dire concern if our general goal is to reduce the chances

of Canada being actively targeted by a terrorist faction. Canada, over the past 15 to 20 years, has seen a "decline in our leadership role in development, and decline in the international significance of our peacekeeping and other international security activities" (Greenhill 35). As a result, currently Canada has very little presence in Washington, mostly due to the fact that we lack many military capabilities and the political will to make much of a difference internationally. Greenhill suggests that not having an image "often has a lot of benefits" (Greenhill 37) in terms of security, however, having a positive image may stand to offer even greater benefits. Thus, in order to rebuild the Canadian image in a positive, internationalist light, we must take care what areas of our foreign policies we chose to champion on the international stage. By improving our foreign aid resources, improving aid effectiveness and re-defining the objective of foreign aid to benefit the needy rather than focusing on the benefits to the Canadian economy, I believe Canada's image stands to be improved, and global stability and security itself ultimately stand to be enhanced. Rather than appearing as a self-interested, exploitive neo-colonial entity akin to the United States, Canada must redefine itself as a genuinely humanitarian link between the north and south – both in word and especially in action.

The fourth chapter will be devoted to Canadian sovereignty claims in the Arctic. In light of the increasing viability of the Northwest Passage as a shipping route due to recent global warming trends, the pursuit of Canadian Arctic sovereignty is of mounting importance in the coming years. By formulating a comprehensive legal strategy for this situation, and bolstering our legal claim to sovereignty with a significant and permanent

increase in Canadian forces in this region, Canada will be able to confidently pursue an agenda that is directly opposed to American foreign policy interests. The purpose of this venture is not to incite American wrath, but rather to publicly display Canada's commitment to a distinctly Canadian foreign policy in the world. Furthermore, in order to adequately pursue this agenda, it is imperative that Canada commit itself to significant increases in the strength and capability of the Canadian Armed Forces – an act that has the potential to, again, place Canada in a stronger global position, increase our ability to defend against security threats, and potentially exert greater influence in our numerous multilateral organizations while maintaining the posture of relative independence from American influence.

Chapter 1 – Canadian Security

It is no secret that Canada is heavily reliant on the United States for much of our economic success, and national security. In fact, the close relationship between Canada and the United States has been classified as both familial, and one of best-friendship. This sentiment has been most recently reinforced by President George W. Bush, who, on December 1, 2004, addressed Canada and ensured that "our two peoples are one family and always will be" (CNN.com).

Although this small speech was undoubtedly a simple diplomatic gesture designed to nurture support, and re-gain Canadian goodwill at a time when the United States was reaching out in need of international support, it still touched upon a fundamental truth. Canada and the United States are linked in so many ways that it would be virtually impossible for either country to deny our obvious interdependence.

Canada-U.S Interdependence

The relationship between the United States and Canada is probably the closest and most extensive in the world. This is reflected by the movement of $1.4 billion worth of goods, services, and investment income between the two countries every day, and over 100 million crossings at the U.S.-Canadian border every year (U.S.[b] 1). Canada and the United States share the world's largest and most comprehensive trading relationship that is supportive of millions of jobs in each country. Total trade between the two countries in 2006 exceeded $500 billion (U.S.[b] 1). Not only is Canada is the leading export market for 39 of the 50 U.S. states, and ranked in the top three for another 8 states,

Canada is a larger market for U.S. goods than all 25 countries of the European Community combined. The U.S. is Canada's leading agricultural market, taking nearly one-third of all food exports. Conversely, Canada is the second-largest U.S. agricultural market, after Japan (U.S.[b] 1). Since the implementation of the North American Free Trade Agreement (NAFTA) in 1994, trade between the United States and Canada has more than doubled.

In addition, Canada and the U.S. enjoy the largest energy trade relationship in the world. Canada is the single largest foreign supplier of energy to the United States – providing 17% of U.S. oil imports and 18% of U.S. natural gas demand (U.S.[b] 1). The electricity grids of the United States and Canada are closely linked and are required to meet jointly developed reliability standards. The province of Quebec is a vital source of electricity for the state of New England.

Canada and the U.S. also have one of the world's largest investment relationships. The U.S. is Canada's largest foreign investor with the stock of U.S. foreign direct investment in Canada at $228 billion, or about 65% of total foreign direct investment in Canada in 2005 (U.S.[b] 1). Canada, on the other hand, is the sixth-largest foreign investor in the United States. At the end of 2005 the U.S. Commerce Department estimated that Canadian investment in the United States had reached $235 billion (U.S.[b] 1).

In addition to close bilateral trade ties American defense arrangements with Canada are very extensive. The Permanent Joint Board on Defense, established in 1940, provides policy-level consultation on bilateral defense matters and the United States and Canada share mutual security commitments through NATO. Canadian and American military forces have cooperated since 1958 on continental air defense within the framework of the North American Aerospace Defense Command (NORAD). The response to the terrorist attacks of September 11, 2001 served to strengthen military cooperation between the United States and Canada even more. A new NORAD agreement, beginning May 12, 2006 added a maritime domain awareness component, and although it is subject to regular reviews, is of "indefinite duration." Furthermore, law enforcement cooperation and coordination have since become even closer through such mechanisms as the Cross Border Crime Forum (U.S.[b] 1).

It is important to recognize that this 'familial' relationship between Canada and the United States that President George W. Bush speaks of is largely a result of our economic and military cooperation and interdependence. Certainly most foreign policymakers would agree that national interests are primary in the decisions of sovereign states. Rational, logical alliances that are created to encourage and foster economic prosperity and security *may* lead to so-called friendships between nations, but foreign policy is certainly never based on any sort of pre-existing feelings of intimacy or 'friendship' between nations. As such, it is probably not a good idea to place too much weight on this type of inter-country friendship without the economic and military

relationship to back it up. For example, while Great Britain might be called 'the closest friend of the United States' at one moment, this label is, arguably, just as likely to be removed should Great Britain not support the next American global initiative. Indeed, John H. Thompson contends that "[t]here isn't any special relationship between the United States and anybody, much less Canada. American policy toward Canada pretty much conforms with American policy towards other countries. It serves what the U.S perceives is in its national interests at any particular time" (National Post).

Clearly it is not in the best interest of Canada, nor the United States, if our relationship falters in any way. Having said this, I feel confident that it is in no danger of collapse, or disintegration in the near future, or for the foreseeable long-term. To clarify this point, let us examine the pivotal motivators (either real or rhetorical) for American global action or inaction and their connection to Canada's own foreign policy:

1. Political Ideology.
2. Economic Ideology.
3. Security.
4. Resources.

Political Ideology: Since their emergence as independent states, the political ideologies of Canada and the United States have been far more similar than dissimilar. Regardless of the relatively minor differences in implementation between countries, both countries have a singular history of very strong liberal democratic ideals. To varying degrees, Canada and the United States are both purveyors of democracy and democratic rhetoric

throughout the world, both on their own, and through membership and in various international organizations such as the World Bank and the IMF, and the United Nations. Furthermore, the United States (and Canada, for that matter) do not seem as concerned about political ideology if other (especially economic) interests might be risked by doing so. For example, although China is still undeniably a communist state, the U.S. still maintains relatively good relations with the Chinese government, and conducts massive amounts of trade. In 2005, the U.S. was China's largest trading partner, with over $2.1 billion in trade, an increase of 24.8% since 2004 (USCBC 1). Similarly, in 2005, China imported $48 million worth of American goods, fourth only to regional powers such as Japan, North Korea and Taiwan, for a total increase of 9.1% from 2004 (USCBC 1). Although it would be an exaggeration to suggest that the United States has a particularly 'friendly' relationship with China, it is clear that ideological differences do not seem to necessitate poor relations with the United States, provided there are other tangible benefits to maintaining such good relations.

Economic Ideology: Although Canada certainly has a more leftist (or statist) bent with regard to its social programs than its southern neighbour, both countries still adhere to the basic principles of free-market neo-liberalism, and economic globalization. Furthermore, aside from numerous trade disputes with the United States, both countries continue to do increased levels of trade with each other over time, as we saw previously in our examination of Canadian-American interdependence. Our mutual involvement in G8, and the legal regime of the NAFTA further solidify the continuity of the Canadian-

American relationship with regard to economic policy.

Security: Both nations are tightly bound by the issue of security due to our close geographical connection and our long history of security and military cooperation which is entrenched in institutions such as NATO and NORAD. Neither country would benefit from a trend away from tight collaboration with regard to bilateral regimes that deal with border security and defense planning, nor would we benefit from the discontinuation of international military exercises that allow for the inter-operability of the Canadian and American armed forces. Indeed, it is imperative that both countries recognize the continued need for intimate and innovative security agreements such as the Smart Border Initiative in order to both support and expedite the economic relationship between our two nations at the border, as well as to tighten loopholes and minimize legitimate security concerns in both countries.

Resources: As a result of our proximity to the United States, as well as our vast array of exploitable resources, the United States and Canada have a very mutually beneficial relationship. With already heavy, and ever increasing American dependence on energy-related resources, as well as increasing global competition for these resources, the United States certainly realizes the invaluable asset of having Canada remain a close friend and ally.

For the previously mentioned reasons alone, Canadians should be relatively secure in the stability of our relationship with the United States. However, to further illustrate this point, let us briefly look at the repercussions that have befallen a few traditional American allies who have diverged from American foreign policy objectives.

Consequences of Policy Divergence

Let us now consider the case of political divergence between France and the United States leading up to and after the American invasion of Iraq in 2003. Both France and Germany were quite uninhibited in their condemnation of both military planning and action, before all diplomatic channels were exhausted in Iraq. Both countries went so far as to voice strong arguments against such action in the UN Security Council, as well as formally vetoing plans by NATO to fortify Turkish military bases in preparation for such an event.

As a result, American printed media and news stations lambasted France with petty insults and mockery, Bill O'Reily called for a boycott against French products sold in the United States, and anti-French discourse was prevalent among the American public. The response of the American government was also strong, at least on a verbal level. In a statement made on January 22, 2003, Secretary of Defence, Donald Rumsfeld attempted to de-legitimize France and Germany by referring to them as members of 'old Europe'. Rumsfeld elaborated, "if you look at the entire NATO Europe today, the center of gravity is shifting to the east," and ultimately concluded with the acknowledgement that Germany and France were both a 'problem' for U.S. foreign policy objectives in Iraq (U.S. 1).

At the House of Representatives, in a largely symbolic move, french-fries and french toast were renamed 'freedom fries' and 'freedom toast'. The United States also ignored the 2003 Paris Air Show in a show of disgust for French non-support (Levine 1).

The most serious economic implications for France have come at the hand of the U.S. Defense Department which discouraged American contractors from providing parts for French-made weapons systems (Levine 1). As well, France, Germany, and other countries who failed to support the American war in Iraq were excluded from bidding on the first round of contracts for the rebuilding of Iraq's societal, economic and democratic infrastructure (Raz 1).

However, these 'reprisals' had little *real* economic effect on France. According to the U.S. Census Bureau, in February 2004, the United States imported $2.26 billion in French goods and services, up from $2.18 billion in February 2002 (1).

Indeed, even now, the American government is attempting to make amends with France for past rifts over Iraq, finally realizing that the U.S. itself benefits from a warm international relations climate, than a frigid confrontational standoffs and global non-cooperation. In 2006, Jean-David Levitte, Ambassador of France to the United States acknowledged that the significant problems that the United States has had with France is now a thing of the past. Indeed, Colin Powell himself said "[t]he United States and France have been in marriage counseling for 220 years but the marriage is still strong" (Levitte 3). This concept is reinforced by newly appointed US Secretary of Defence, Robert Gates' attempt to re-formulate US-France relations during a European security conference on February 10th of 2007, especially concerning the comments of former Secretary Donald Rumsfeld who divided Europe into 'old' and 'new.' Gates asserted that "all of these characterizations belong in the past" as he attempted to mend ties with

European leaders (Shanker 1).

Furthermore, there have been a number of times when Canadian leaders have pursued a fairly independent foreign policy path in certain situations. The choice to challenge American policies in Indochina, reject the US approach to Cuba following Fidel Castro's takeover, and criticize some American policies in central and Latin America stand out as a few noteworthy examples (Malone 4). It could be argued that at times Canada did suffer the consequences of such policies, most notably in failing to win exemption from the radical economic measures imposed against US trading partners in 1971, however this American decision would probably be better attributed to simple economic factors.

The American legislation of the Helms-Burton Act of 1996 was a more distinct example of American punishment for nations doing business with Cuba (Dyck 175). However, the most that the United States has done with this act is to prevent international citizens who have done business with Cuba on property that was formerly expatriated from American citizens, from entering the United States. Canada, as a result, legislated the Foreign Extraterritorial Measures Act which directly states that "[a]ny judgment given under the law of the United States entitled *Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996* shall not be recognized or enforceable in any manner in Canada" (Canada[e] 1). For the most part Malone is likely correct when he states that, historically, retribution "has been the exception rather than the rule" (4).

It is a bit of a curiosity as to what exactly Canadians fear from the United States in terms of political repercussions. American military intervention in Canada is a comical

idea, especially considering the substantial opposition the United States faced going into Iraq – a nation with a very poor standing in the international community. Nor is it reasonable to think that Canada would ever goad the United States to this kind of extreme measure, considering our intrinsic similarities, and our economic and military dependency on our southern neighbour.

Economic sanctions are certainly not out of the question; however economic regimes such as NAFTA would almost certainly help to limit the effectiveness of this type of action. Furthermore, the way the current global market stands, Canada is by far the most secure source of energy and resources for the United States. Thus, any significant economic sanctions would be felt quite severely by the American, as well as the Canadian economy. It is highly unlikely that the American people would tolerate sanctions that would undoubtedly interfere with the cost and availability of energy in the U.S., despite the possibility of their government's annoyance with Canadian policy.

Another concern that Canadians have historically had with regard to American repercussions for Canadian policy, is the fear that the U.S. would threaten to withdraw the military protection that Canada greatly relies upon for protection and deterrence. However, both countries' close involvement, and mutual benefit from security organizations such as NATO and NORAD make this very implausible. Furthermore, we must realize that it is in both Canada's and the United State's mutual interest to have American involvement in Canadian security. Until Canada itself steps up to the plate and heavily increases its security budget, to the extent that U.S. involvement is unnecessary,

the United States will continue to involve itself in Canadian defence.

It is clearly in American security and economic interests to have a northern neighbour that is resource-laden, and above all, militarily secure. Realistically, Canada will likely never be in a position where it can solely defend itself to the full expectation of the United States (and most Canadians), nor will the United States ever likely give up the niche it has carved in Canadian security, considering their continued and seemingly permanent positions in so many other nations in the European, Asian and Middle Eastern theatres.

I would suggest that very little aside from the unlikely scenario of a massive ideological divergence between the United States and Canada, would alter this tightly knit relationship to any meaningful degree. The Canadian and American relationship is based more on practical functionality than warm, humanistic feelings of friendship and camaraderie. Ultimately, ours is a sort of relatively balanced symbiotic relationship that exists for the combined benefit of both actors inclusively. Canada does not owe the United States anything for the pleasure of having American radar installations patrolling our northern sky. Nor, given the existence of legal economic regimes and recent precedent, do we likely have to fear much in the way of political repercussions if we occasionally do not give approval to American policy, or get American approval for our foreign policy objectives – provided, of course, that they do not consistently oppose the interests of the United States.

With this reality in mind, I would suggest that Canada should not refrain from

exerting its independence from American foreign policy when necessary, especially if we might stand to gain more from such undertakings than we would otherwise gain under a foreign policy more closely and obviously aligned with American interests in the world.

Once Canadians and our policy-makers can come to terms with their semi-irrational fears relating to how the United States views us, we will be better able to envision Canadian foreign policy objectives in terms of what is best for Canadian security in the world. However, by the same token, the decision to differentiate ourselves from certain American policies should not allow for the cultivation or legitimization of anti-American inclinations that lurk just beneath the surface of many of these Canadian insecurities. Although Granatstein admits that American national interests are not exactly the same as Canadian national interests, "our interests are similar, our values are closer to each other's than we want to admit, and we are friends" (Granatstein 211). Furthermore,

> insulting the nation that guarantees Canadian prosperity and Canadian defence is extremely detrimental to the national interest. Cheap anti-Americanism serves no Canadians' purposes. Chanting "U.S. sucks," calling Bush a "moron," and deliberately kicking a superpower in the shins on issues of vital concern to its leaders and people do nothing to achieve a resolution of Canadian concerns in Washington (Granatstein[b] 87).

Geography has made the United States our neighbour, and this resource is Canada's "ace in the hole" (Granatstein[b] 87). In our bid to distinguish ourselves from the U.S., we must take care to not to succumb to true anti-American sentiments, and thereby lose the advantage that they afford us.

It is true, however, that Canada and Canadians in general must take on a far

thicker skin than they have in the past, and resist the urge to perpetually over-analyze our relationship with the United States to the extent that we fret about insignificant details. We have the resources, the economic strength, multilateral economic and military assurances, and the international legitimacy to stand on our own two feet, yet if an international relationship could possibly be characterized as an inter-personal relationship, Canada portrays the insecure, neurotic spouse of the United States with frightening accuracy. It is for these reasons that Canada must throw out its many insecurities and realize that the United States and Canada are bound together geographically, economically, historically and especially with regard to North American security. If anything, we should be more concerned with becoming co-opted by the United States than alienating them by our actions. At times our relationship may be strained, and at other times it may be cozy, but ultimately the *real* issues that matter – the economy and security, will eliminate any temporary grievances that either country may temporarily 'feel' towards the other. Additionally, we must remember that Canada can help provide something that the United States is certainly in need of – international legitimacy.

Global opinion: Regardless of historical American skepticism about international institutions, and despite their willingness to often unilaterally embark on or spear-head foreign policy adventures, the United States is no exception to the reality of global opinion. Concern for international approval was seen in the massive campaign launched by Colin Powell leading up to the 2003 war in Iraq. Eloquent speeches like the one given by Colin Powell to the United Nations Security council on February 5, 2003 make it quite

clear that the United States is bound by some extent to international opinion (UN[d] 1). The United States did not need military aid for the mission, they realized that they needed to convince the world that their actions were justifiable and acceptable to the global community. Jennifer Welsh points out that "you could argue, quite ironically, that the Bush administration has invested more time in the UN than any administration of the past twenty years" (55). She goes on to point out that in the four cases in which the United States has used force against terrorism – once by Ronald Reagan, twice by Bill Clinton, and once by George W. Bush – only the last bothered to take his case (against Afghanistan) to the United Nations" (55). Colin Powell's address to the Security Council lends more credence to this point; the United States must continue to be very aware of the power of international opinion, and the necessity of keeping its traditional allies, even if only to help legitimize its position and thus help maintain domestic support for its policies. Although the United States has a history of opposition to international objectives, such as Kyoto, the ICC and many other international treaties, failure to attain this legitimacy in the case of Iraq, and the subsequent failures of the mission and deconstruction of the Bush administration's motivations for war has been a costly to the American reputation both internationally and domestically. Furthermore, it has led to an American crisis of legitimacy that may lead to an increasingly multilateralist American agenda in the immediate future.

American Crisis of Legitimacy

Faced with the consequences of global opinion on American actions in the Middle East, even neoconservatives within the United States admit to facing a 'crisis of

legitimacy'. Robert Kagan points out that "the struggle to define and obtain international legitimacy in this new era may prove to be among the most critical contests of our time. In some ways, it is as significant in determining the future of the U.S. role in the international system as any purely material measure of power and influence" (Kagan 66). Kagan argues that during the Cold War, the legitimacy of the United States was largely taken for granted by the western world – "it was not international law and institutions but the circumstances of the Cold War, and Washington's special role in it, that conferred legitimacy on the United States, at least within the West" (Kagan 67). Kagan calls this a 'structural legitimacy', where "the existence of Soviet conventional and nuclear power acted as a restraint on Washington" (Kagan 68). However, as the sole global hegemon, the United States does not have the luxury of being seen as an intrinsically legitimate force anymore. The structure associated with the Cold War era is gone. The sheer stature of the U.S. in the world causes American policies to be examined with suspicion and mistrust.

Some might argue that the United States does not *need* to be seen as legitimate – after all, it has the military and economic capabilities to 'go it alone' without international support if it sees fit to do so. However, it is unlikely that the American people would have the stomach for this type of venture. Kagan points out that it is doubtful that "the American people will continue to support both military actions and the burdens of postwar occupations in the face of constant charges of illegitimacy by the United States' closest democratic allies (Kagan 85).

The Security Council is certainly one place where legitimacy may be attained, however, it is not the only place. As Robert Kagen suggests, "legitimacy is a genuinely elusive and malleable concept. Discovering where legitimacy lies at any given moment in history is an art, not a science reducible to the reading of international legal documents" (Kagan 79). Given the current global climate, legitimacy seems to reside in the collective opinion of the western powers who agree to the basic principles of human rights and democracy. The American people (and government) do not seek approval from the governments of North Korea, Libya or Syria. Nor, for that matter, do the governments of the European Union, or Canada seek legitimacy from these nations. Indeed, the opinions of the Chinese and Russian government are never sought after for 'legitimacy,' per se, but rather for the assurance that these significant military powers will not militarily object to actions taken on a global scale. In the current global framework, legitimacy seems to come from the approval of fellow democratic nations with historical commitments to general human rights, multilateralism, liberalism, and free-market economies. In Kosovo, legitimacy was not obtained through the United Nations Security Council, but through the approval of most democratic western nations, and NATO itself.

Kagan doesn't fail to realize that a loss of American legitimacy with fellow democracies "would be debilitating – perhaps even paralyzing – over time" (Kagan 85). Because of this, he goes on, "the United States can neither appear to be acting, nor in fact act, as if only its self interest mattered. It must act in ways that benefit all humanity or, at

the very least, the part of humanity that shares its liberal principles" (Kagan 85).

Indeed, despite a number of political disagreements between the United States and its democratic allies, it appears that, for the most part, these nations are able to mend relations with relative ease, and fairly minor repercussions for all involved.

Canadian Insecurity

The previous discussion outlined a number of reasons why Canadians and the Canadian government should become more confident about formulating an independent Canadian foreign policy that is designed with Canadian values and interests in mind. It is true that American interests should (and will) factor into the Canadian foreign policy debate, but at the same time, decisions should not hinge on American acceptance of our goals or values, nor should we have any logical reason to fear heavy American reprisals due to our national stance on certain issues, provided they are not out-of-touch with the guidelines associated with international economic and security regimes, or the principles and human rights guaranteed by the United Nations. The United States, despite its ability to control or influence these structures, also has its hands tied by global economic regimes, global opinion, its need for legitimacy and last, but not least important, the voice of its own citizens.

As we have seen in the previous examples, France, Germany, and Canada have essentially escaped unscathed, despite their opposition to the American-led war in Iraq. Britain, on the other hand, despite its eager approach to aid the United States in this endeavor, has had to cope with very little in terms of benefits for such action. Certainly

British companies were allowed to bid on the first round of contracts in Iraq, British objectives and interests were considered, and some British nationals were turned over to Britain from American custody. However, considering what Britain has sacrificed to stand beside the Americans in Iraq, in terms of cost and loss of life, these gains seem relatively inconsequential.

These events should help illustrate and affirm the relative freedom and lack of *real* repercussions that Canada would likely enjoy despite framing a foreign policy without the United States at the forefront of every decision. In fact, by divorcing ourselves somewhat from the often contentious foreign policy endeavors of the United States, we may be able to again fashion for ourselves a niche in the global community. Furthermore, by pursuing more independent, internationalist policies that diverge from strict self-interest, Canada can re-formulate its global image in a way that has the potential to enhance our own image, and security in three distinct ways. Firstly, by creating a distinct disconnect between our foreign policy objectives American foreign policy, we can ensure that we are not seen and targeted as American lapdogs or conspirators with neocolonialist tendencies. Secondly, by formulating our own foreign policy based less on self interest than on humanitarian, internationalist values, we can attempt to resurrect the Canadian image of relative impartiality, and act as a bridge between the global north and south. Thirdly, by endorsing foreign policy objectives that are generally internationalist and humanitarian in nature, Canada can help bolster its international reputation to the extent that Canada may become of greater use to the United States as a tool for legitimizing American foreign policy objectives that might

otherwise seem to be de-legitimized by potential institutional gridlocks in the United Nations and NATO, and a general mistrust of unilateral American policy as a result of its hegemonic stature in the world. By pursuing such a policy, Canada stands to strengthen its internationalist image, thus potentially decrease our risk of terrorist attack by global discontents who blame the self-interested policies of northern states for the failures of their states. In addition, by increasing our internationalist standing, we can over the long-term, by our endorsement of certain select American foreign policy endeavors, help provide the United States with some level of legitimacy that is necessary for their implementation and success.

Let us then imagine what Canada's first steps towards these goals might be.

Canada's Future:

There is a growing sense that Canada has lost its way – and certainly much of its influence – in world affairs. This concern has been reflected in the reports of committees in both houses of parliament, in the academic literature on foreign affairs and defence, in the commentaries of retired foreign service and military officers, in the occasionally indiscreet observations of foreign diplomats…in the work of several leading public policy 'think-tanks,' and increasingly in the print and electronic media (Stairs, et al 2).

The Canadian Defence and Foreign Affairs Institute (CDFAI) acknowledges that the myths of our foreign policy have gradually fallen by the wayside. We are no longer seen as more peace loving and neutral than our western allies. One of the reasons for this is the lack of funding that Canada puts into international affairs. Unsurprisingly, the result is that "trying to project Canadian values abroad has turned into a largely

hypocritical exercise: the Canadian government talks, in effect, a good line, but fails to put its money where its mouth is" (Stairs, et al 13). As Canadians we must work to avoid this tendency. If we are to be taken seriously on the world stage, we must make a decision. Either we refrain from talking the talk, or else we must shoulder the monetary costs associated with the extension of our values into the global community.

Canadian involvement in international institutions and policies has often been referred to as value-based, however, these values have never really been fully articulated. According to the Canadian Defence and Foreign Affairs Institute (CDFAI), "Canadians want their country to be involved in the world, and perhaps too often, to be moral while doing so" (Stairs, et al 9). The question is really about how possible it truly is to bring morality into foreign policy. According to the CDFAI, "if the world's problems were simple black and white issues, this would be easier, but one group's just demands are almost always another's worst nightmare" (Stairs, et al 9). While some issues are often quite 'grey,' especially across cultures, I cannot accept this conclusion by the CDFAI which essentially places one group's 'worst nightmare' on equal footing with the larger issue of inalienable human rights. One group's right to life, liberty and security of person surely must supercede another group's 'worst nightmare' that the first group is allowed to exist. Indeed, most people would agree that we have had a measure of success overcoming the issue of 'competing rights' within the various constitutions of more than a few ethnically and culturally diverse democratic nations; surely it is not an impossibility to implement a similar solution (as the United Nations strives to do) within the context of

international relations and foreign intervention and aid.

It is relatively safe to assume that Canada does not have the capacity or desire to violate norms of national sovereignty in order to completely re-structure the world according to our 'Canadian values.' Unless triggered by extreme human rights violations as outlined in the United Nations Responsibility to Protect Doctrine, and backed by the legitimacy of a multilateral institution, Canadians are generally opposed to foreign intervention – as was seen in the case of Iraq. However, in such cases when Canada is called upon to take action in the international community, it is certainly not asking too much that we conform to a basic code of morality, and work towards establishing the infrastructure to support the basic framework of human rights that the United Nations has deemed 'inalienable'.

Some have also suggested the necessity of "setting our national aims ahead of particularistic interests around the globe" (Stairs, et al 9). However, "this is a difficult task, perhaps an impossible one, but until Canadians truly know who they are and what their national interests comprise, there is a danger that ethnic group pressures on Canadian foreign policy will escalate" (Stairs, et al 9). This is a valid point. A simple solution would be to realize that Canada's own national interest may be best served by acting in the capacity of a moral actor. Thus, our foreign policy objectives should be determined based on how they affect *our* country's image and international reputation. Not only will this eliminate the problem of ethnic pressures on our foreign policy-makers (since the decision-making process will necessarily be driven by internationally accepted,

U.N.-defined values), it will potentially allow for Canada to re-gain its damaged reputation as a moral, internationalist player.

According to Ross, "worrying about our 'moral identity' and reputation is not the way to proceed: fashioning a sensible, pragmatic and useful set of contributions to ameliorating the major international security challenges through the deployment of tangible 'hard power' resources is" (Ross 354). I agree with Ross that Canada must enhance its hard power resources if it expects to be taken seriously, however, in the current global era, where terrorists are able to mastermind potentially devastating assaults on traditional 'hard powers,' such a solution seems insufficient on its own. James John Guy suggests that "Canada's place in the global community should be examined from the perspective of Canada-US relations, the widening of NAFTA, as well as through its role in the United Nations and other international organizations" (412). Based on the evidences we have examined in the first part of this paper, I would downplay the significance of the Guy's first point, and would furthermore add one more criterion to this list. Canada and Canadians need to articulate a distinct worldview that they are willing to endorse and implement within their foreign policy objectives, and above all, we must be willing to back it up with a greater dedication to the principles of hard power that can extend Canada's reach around the globe and quell the cries of 'hypocrisy' from critics.

Ultimately we have two choices as a nation: we can allow ourselves to succumb to mediocrity on the world stage, or we can actually attempt to provide an example of the

Canadian values that we claim to be so proud of. Two things, however, are clear: Firstly, we cannot continue to ride on the back of our American neighbours and proclaim to be a genuine, moral 'global citizen' with any degree of legitimacy. Secondly, given our geo-political, and institutionally entrenched relationship with the United States, we have little need to fear that American displeasure will result in any meaningful economic or military sanctions against Canada.

With the events of 9/11, the balance of power of the world has shifted – or we have simply become aware of our lack of immunity from the wrath of discontents in the global south. With this change comes the opportunity for Canada to find a niche in the global community and assert itself. If undertaken with sagacity and diligence, Canada may be able to implement a value-based policy distinct from that of the United States in order to distinguish itself within the global community, act as a liason between the global north and south, and attempt to bridge the global divide that has allowed third world discontent to fester into full-fledged terrorism. Furthermore, by doing this, Canada stands to enhance its security, both in its good relationship and legitimacy with the global south, as well as with the United States itself.

How? Multilateralism?

The issue at hand is thus: How can Canadian foreign policy be formulated in a way where we can be perceived as having significantly different goals and values than those of the United States, yet not so much that we deliberately antagonize our southern neighbour with either our loud criticisms, or our policy choices. How can we secure American goodwill, yet be perceived by the rest of the world in a way that diminishes our

chances of being deliberately targeted by global terrorist networks?

Canadians must carefully determine the important elements that should be examined and addressed by our foreign policy. Certainly, how we view ourselves as a people is an important factor, however, we must, above all be cognizant of our place in the global community if we want to be able to have a realistic assessment of what we as a country are (and are not) capable of on a global scale.

The two primary indicators of power in the current world reside in the economic standing, and the military capability of a nation. Economically, in terms of GDP, Canada is ranked by the World Bank as being 9th in the world, with a GDP of 1.1 trillion (World Bank 1). Militarily, however, Canada is a very dependent nation. Our military expenditures in 2005 were 10.9, ranked 14th in the world despite being the second largest nation in the world in land area, having the longest coastline in the world, and being positioned on the doorstep of the global military hegemon (Shah 1). Although the current Harper government is attempting a fairly significant turn-around of the Canadian armed forces, it is unlikely that Canada will ever be in a position where it is able to rely heavily on its own military power to exert its opinion on the global stage. It seems logical that if Canada is to make a difference in the world, it must rely primarily on its active membership in multilateral institutions, to magnify its influence in the world to a greater level than would otherwise be possible.

Canada has a more extended global reach than its GDP or military abilities would realistically suggest. This is a direct result of Canada's involvement in a number of

multilateral economic institutions such as G-8, NAFTA, G-20, NATO, La Francophonie, and the UN, just to name a few. However, despite its institutional reach, Canada's strength and influence within these institutions is very limited. As such, it is unrealistic to assume that Canada has the innate ability to fundamentally change the direction of this organization just by virtue of being a member. In each of these institutions Canada is a very small player compared to the economic powerhouses of the United States and the European Union, and consequently must *work* to elicit any form of change.

Indeed, the Canadian government's support for multilateral institutions, at times, overwhelms other considerations and interests and shapes many aspects of Canadian foreign policy. In joining NATO's military action in defence of Kosovo, Prime Minister Chretien said: "We are part of a team and we have to respect its decisions" (Keating[b] 1). Ultimately, this is the main concern with multilateral institutions in general – rather than influencing policy through the organization, the organization ends up being driven by the interests of the more powerful nations, at the expense of the less powerful. At the same time, entrusting national decisions to a multilateral institution is not always a bad thing for the international community, nor for certain (particularly small or middle-sized) players within that institution. In the case of the 2003 War in Iraq, Canada (and Canadians) suggested that they would only support such action if the UN Security Council had approved. Tom Keating points out that "for many Canadians, on this critical issue, the principal concern was not what Canada's allies were doing, or even the particular developments in Iraq, but what the UN Security Council had to say" ([b] 2).

Canadian policymakers realized the need for multilateral legitimacy and thus the approval of the UN. Canada was thus able to, rather than directly oppose American unilateral action, divert authority to a more globally respected multilateral actor. Despite the fact that Canada does not have a permanent seat at the table of the UN Security Council, the UN does provide a forum where small and medium powers are guaranteed sovereignty and granted a much higher level of respect in international relations than might otherwise be the case.

Despite its unfortunate (but almost inevitable) tendency to be swayed by certain political pressures, it is probably safe to say that the United Nations is viewed as the least biased and most internationally respected player in global politics. Canada's ability to divert such decisions to the will of the UN is certainly a valuable asset to a country that would otherwise be far more susceptible to American political pressures. Furthermore, Canada's bridging role at the UN and elsewhere is much admired internationally, as its aid programs and its leadership role in peacekeeping have been in the past (Malone 4).

In addition, legal regimes such as NAFTA leave very little room for manipulation without inviting a complete re-negotiation of terms. Since the very purpose of these legal regimes was to help bind the United States to rules as a means of seeking security in a relationship where Canada was at a significant disadvantage, it would seem particularly near-sighted for Canada to challenge NAFTA, unless it is in a position where it is willing (and ready) to re-visit the terms of the legal regime in its entirety. Challenging NAFTA on a case-by-case basis would simply undermine the legitimacy of the legal foundation of NAFTA itself, essentially leaving Canada where it started – open to potentially unfair,

ad-hoc American economic policymaking. Of course the benefit of NAFTA still remains in the ability to challenge American (and Mexican) trade practices and adjudicate disputes within the legal framework that NAFTA provides.

While multilaterals often serve to advance Canadian interests and policies it is important to realize that, in some cases, there are negative impacts. With these realities in mind, it is very important to approach multilateral institutions with the full realization of how the inner power structure works, an intimate awareness of one's national direction, and skillful and calculated articulation of these principles.

As Tom Keating points out, for a multilateral system to work effectively,

> it requires dominant powers such as the United States to listen to others, convince them to come along, and occasionally concede to the views of others as one's self interest must also take into account the interests of the community at large. It also requires that other powers, such as Canada, commit the necessary financial and military resources to contribute more substantially to make its own multilateral visions a reality (189).

In order to properly make use of the multilateral institutions which it is a part of, Canada *must* expect to pull its weight militarily, and continue to increase funding in areas of military, and security regimes.

Academia

It has not always been the case that Canadian policy has tagged along on the heels of American policy, while randomly criticizing them so as to *appear* somewhat independent. At certain points in time, Canada has taken leadership roles based on a conviction of what must be done – and done it surprisingly well. Examples of such roles

include Lester B. Pearson's action in the Suez Canal Crisis, and Canadian initiatives on issues such as the International Ban on Landmines, and the creation of the International Criminal Court (Canada[f]). However, aside from these brief, but uplifting forays into the global scene, Canadian policy has primarily concerned itself with a very self-conscious policy that is perhaps overly wary of our American neighbour, is verbally supportive of moral initiatives on an international scale, while quietly subverting them through underfunding, and has focused heavily on the idea of multilateralism without effectively *using* the advantages they afford us to our fullest capability. Indeed, Andre Beaulieu terms Canada a 'serial joiner' (Welsh 159). Jennifer Welsh furthers Beaulieu's point with her own assertion that "we have been obsessed with joining institutions and pursuing the tactics of middlepowermanship; in so doing, we've lost sight of what we are trying to accomplish both on the North American continent and in the wider world" (Welsh 159). In a sense I would agree with this. Despite the benefits that multilateralism can afford middling powers such as Canada, it must be up to the Canada to skillfully utilize the opportunities afforded by these institutions rather than to be completely led along by the inertia of the institutions themselves.

In order to wield greater influence in multilateral institutions, Canada must substantially increase funding to its intellectual communities and foster the development of more Canadian think-tanks. By actively encouraging the Canadian intellectual community to develop, explore and debate theoretical policy options with regard to various international organizations and initiatives, Canada stands to put itself in a

position where it is pre-emptively prepared to respond to many of the various stimuli and pressures of the international community and multilateral institutions in ways that are directly in line with Canadian values and our interests in the world.

As Welsh suggests, the Smart Border Initiative was a shining example of how Canada can influence American (and, by extension, global) policy simply by having previously devoted the time and intellectual study to a comprehensive analysis of the situation, and providing solutions to the problems that it found in terms of both security and expediency at the Canada-US border (59). As a result, the United States, in the wake of 9/11, adopted the proposal and it was enacted with virtually no revisions.

No doubt aware of the success of this venture, the C. D. Howe Institute has explored various Canada-US economic and security relations during a seminar in September 2003, which was attended by decision-makers and a variety of experts. One participant suggested that, "Canada will achieve more of its own objectives and have more influence…if it presents ideas to policy makers in Washington, rather than reacting after U.S policies have already been announced" (Goldfarb 12). By doing this, Canada has an opportunity to influence U.S. policy, but also must come up with innovative foreign policy ideas.

I would argue that not only must Canada take this initiative with our southern neighbour, it must practice the same technique in its relationship with many of the multilateral institutions that we have become a part of. Rather than continuing our current passive system of ad-hoc policymaking that seems akin to a maple leaf floating

downstream on a current of international pressure and opinion, I believe that Canada is in a position where it can be capable of exerting some influence in global affairs. It would be downright foolish to believe that Canada is capable of singlehandedly changing globe structures and perspectives, but we can almost certainly contribute to the academic, discursive, rhetorical debates that global actions are based upon. Through these techniques we are almost certainly capable bringing Canadian ideals to the international system.

Three Canadian Policies

As we have completed the more theoretical endeavor of defining Canadian security, Canadian values, and Canada's place in the world, let us move on to a discussion about three current issues with regard to Canadian Foreign Policy – terrorism, foreign aid, and the Canadian Arctic sovereignty. In the following three cases, the issues will be outlined, analyzed in accordance with the Canadian values that have been previously expressed, and possible directions for Canadian action will be addressed.

Chapter 2 - Terrorism

One of the most prominent challenges for Canada is to understand and clearly define the new and pressing threats to international peace and security in the twenty-first century. According to most people, transnational terrorism is the most formidable, yet by the same token instructive, global threat of the twenty-first century (Pearlstein 99). It is both part of the new global disorder and a key contributor to that disorder. However, it is possible that in coming to grips with this new menace, we may be able to bring more order and security to a world in profound transition (Pearlstein 99), and find a distinct niche for Canada in the global order.

Who can forget that, On September 11, 2001, the United States, the world's sole superpower experienced a terrorist attack on its soil. The final death toll saw 3056 lives lost in New York City, Washington, and Pennsylvania (cited in Pearlstein 95). The monetary and structural damage was also tremendous. In New York City alone, 3.1 million hours of labour were required to remove 1, 641, 698 tons of debris from the Ground Zero site. The attacks of September 11 attacks resulted in an insurance loss of $50 billion; the single largest insurance loss in history. The U.S. economy, which has lost hundreds of billions of dollars, has yet to fully recover from the events of that day (Pearlstein 95). Terrorism is a clearly a threat that can cause even the most dominant world power to falter.

The organization, Al-Qaeda, bears most of the responsibility for several other

terrorist attacks in the past ten years, such as the 1993 World Trade Center bombing, the bombing of two U.S. military facilities in Saudi Arabia in 1995 and 1996, the 1998 bombings of the U.S. embassies in Kenya and Tanzania, the 2000 bombing of the USS Cole and the 2002 bombing of a U.S. consulate in Karachi, Pakistan. The 1995-96 terrorist campaign within France is also linked to Al-Qaeda as well as the 2002 suicide bombing of a historic synagogue in Djerba, Tunisia, the 2004 train station bombing in Madrid, and the 2005 subway bombing in London.

Terrorism is clearly reflective of a new era of global threat. Pearlstein states that, "this new global disorder confronts us with an entirely new paradigm … In essence, what nation states were faced with during the old global order period was the threat not of shadowy transnational organizations, but rather, that of other, clearly identifiable nation-states" (95). Stairs, et al clarify this concept even further by stating that, "[t]he smaller world created by globalization greatly enhanced the ability of terrorists, trans-nationally deployed, hard to identify, and even harder to find, to attack major international targets, almost simultaneously, and virtually at will. The major threats to global security were now posed not by states alone, but by private players" (2).

Counter Terrorism

In Spain, Germany, Italy, Britain, India, Colombia, and the United States, stern new laws have been passed which allow for the use of secret courts, secret evidence, secret witnesses, warrant-less arrests, arbitrary imprisonment, restrictions on legal representation in terrorism-related cases, and other measures (Pearlstein 97). Other

measures which have been quite successful in countering terrorism, encouragingly, are of a financial or economic nature. Pearlstein reports that, since September 11, 2001, budgets for counter-terrorism programs have increased immensely. The freezing of assets even remotely linked to transnational terrorist organizations has dried up some TTO (Transnational Terrorist Organizations) funds (97). The number of informant's tips on TTO's activities as a result of rewards and other incentives has increased dramatically and high-technology intelligence-gathering programs are undergoing continuous development (Pearlstein 97). While national borders are now more closely guarded, the most significant restructuring of the U.S. federal government in over fifty years has culminated in an enormous and entirely new cabinet-level Department of Homeland Security. These measures have been reasonably productive. Scores of low, medium and high profile terrorist suspects have been apprehended since September 11 (Pearlstein 97).

International cooperation in the fight against terrorism has also increased. International response has come from individual cooperation between nation-states, intergovernmental organizations such as the UN, NATO, the EU, and Interpol (Pearlstein 97-98). Although the war on terrorism has not been won, and in fact may never be won, it is being seriously fought, and with some measure of success.

By its very nature, transnational terrorism demands a broad international response. It is, however, important to note that these measures are not adequate long-term solutions to the problem of global terrorism. As in the case of regional conflict, there must be an understanding of why this conflict is occurring and what is fueling it

(Pearlstein 45). Even President Bush has acknowledged that a war on terror is not likely winnable (Pearlstein 97). For this reason "political leadership, democratic citizenship, political dialogue in the face of global conflict and turbulence all need to be re-learned in the context of our evolving 'high-technology' global system" (Masciulli 349).

Canada has taken counterterrorism very seriously. In 1996, a system was established to place immigration control officers at airports abroad to prevent people with fraudulent documents from boarding aircraft. Since that time, other nations, including the U.S. have also established similar systems (Welsh 120). After September 2001, counter-terrorism was of primary importance on Canada's policy agenda with $7.7 billion of funding from the 2001 budget set aside to finance measures related to immigration, intelligence gathering and border controls (Welsh 120). Canada's *National Security Policy* emphasizes three core national interests related to security which include protecting Canadians at home and abroad, ensuring that Canada is not a base for threats to our allies and contributing to international security (Canada[l] 1). Canada has passed new anti-terrorism legislation, established a new process that can trigger the seizure and freezing of money and assets from suspected individuals, created new criminal laws for supporters of terrorist, and developed new tools to refuse or revoke charitable status for organizations for supporters of terrorists (Canada[m] 1). On January 12, 2007, the Harper government announced a further investment of $431 million over five years to reinforce smart, secure borders to combat terrorism, organized crime and smuggling (Canada[k] 1). The 2006 Defence budget includes a substantial increase of $5.3 billion

over the next five years which means the total Defence budget will reach almost $20 billion by 2010. In the campaign against terrorism, Canada has deployed 16,000 personnel and 20 Warships to Afghanistan and the Persian Gulf since 2001 and currently has 2,300 troops and command of the Multi National Brigade in Kandahar. Canadian ship-borne helicopters and patrol and transport aircraft have also flown 22,500 hours of mission flights (Canada[l] 1).

Because of our proximity and shared border with the U.S, it must necessarily be so that our defence systems are coordinated as they have been so for many years. Currently, there are over 80 treaty-level defence agreements, more than 250 memoranda of understanding between the two defence departments and about 145 bilateral forums where defence issues can be raised. A few of the most notable defence arrangements include NORAD, Canada-United States Permanent Joint Board on Defence (PJBD), and the Canada-United States Military Cooperation Committee (MCC) (Canada[l] 1).

On a North American level, Prime Minister Harper along with Presidents Bush and Fox met on March 31, 2006 to renew their commitments to provide security for the North American continent with the Security and Prosperity Partnership of North America (Canada[j] 1). Proposed and initiated security measures include traveler security, cargo security, bioprotection, aviation and maritime security, law enforcement cooperation, intelligence cooperation, as well as, protection, prevention and response measures in emergency situations. Measures to streamline the secure movement across shared borders include a border facilitation plan and science and technology cooperation

(Canada[j] 1).

From the terrorist actions of the past, it does not seem as though Canada is a principle target of terrorist actions. However, as of May 2006, the head of CSIS advised the government that terrorist attack on Canadian soil are "now probable," (Bronskill 1) and according to media reports in February of 2007, the al-Qaeda Organization in the Arabian Peninsula has urged jihadists to strike western hemisphere oil and gas producers that supply the United States – Canada being at the top of this list (MacLeod 1). Despite warnings for the Canadian Security and Intelligence Service that Canada will likely be hit by terrorism in the future, and a couple of threats from al-Qaeda itself, there have, as of now, been no attacks on Canadian soil. In fact, the worst threat of terrorism to date has likely been the arrest of six men on terrorism charges in Toronto in June, 2006, all either born in Canada, or having immigrated to Canada at a very young age.

Despite this fact, as Douglas Ross points out, "Canadians have a very large and very immediate stake in the effectiveness of American policy in waging and winning their offensive War on Terror in the Middle East and Central Asia, and in their defensive success in protecting American society from WMD attacks" (Ross 348). Ross goes on to raise a very critical point: "If American planning for 'Homeland Security' is done badly, and ultimately fails, any attacks carry very grave risks for all Canadians even if no bombs are detonated or germs are released on Canadian soil" (Ross 348).

It is fairly obvious that, aside from the obvious infrastructural and human loss associated with a terrorist strike on Canadian soil, the main motivators for Canadian

counter-terrorist measures are related to trade, and retaining a good relationship with our neighbours to the south. We simply cannot afford to have massive disruptions causing potentially billions of dollars of lost profit at our borders, and straining relations with our largest trading partner. Canadians, themselves, simply do not have the same fear of terrorist acts as the United States does; a July 2005 poll by Angus-Reid found that only 44% of Canadians were worried about the general threat of terrorism in Canada (Canadians Not Ready 1), while a similar poll conducted in July, 2005 found that 55% of Americans thought a terrorist attack was likely *in the next several weeks* (CNN/USA TODAY 1).

Canada has certainly responded to re-vamp its intelligence networks, and reinforce the border between the United States and Canada, however, I wholeheartedly agree with Frank Harvey when he suggests that "Canadian officials should begin to develop planning scenarios to help prepare for a variety of U.S. responses to terrorist attacks. The objective should be to go beyond emergency preparedness…and to begin thinking about how Canada should respond more effectively (and immediately) to a range of potential U.S. reactions" (Harvey[b] 221).

Indeed, as Harvey points out, the need for Canada to be confident and proactive when crafting Canadian responses has never been greater as in this post 9/11 world (Harvey 221), because, as Wendy Dobson cautions, "a nation that merely reacts to events is likely to see its sovereignty erode and its future determined by others. A nation that exercises its sovereignty anticipates change, prepares options that promote the key interests of its partner, but channels actions in ways that best serve its own interests"

(18).

According to Anthony Cordesman of the American Center for Strategic and International Studies, it is undisputable that the West does need to actively protect itself against terrorism and try to deny movements like al-Qaeda sanctuaries in such places as Afghanistan, Iraq and Somalia" (Cordesman 101). However, despite these steps, other methods must be explored in order to combat terrorism with a multifaceted approach.

While it is fitting to both prepare for the possibility of a terrorist attack and use whatever resources we can to prevent such attacks for our own sake as well as to ease the minds of our southern neighbour, it is also important to explore the way Canadian foreign policy in general can deal with terrorism. As we have seen in the American-led war on terror in Afghanistan and Iraq, there is very little chance of a conclusion that would be deemed successful with regard to ridding the world of terrorism. The very notion that random acts of violence can be defended against is a very optimistic, if not completely unrealistic proposition. Thus, exploring new directions in our foreign policy might allow us to alter the world view of Canada in a positive direction, and by doing so, help prevent terrorist activities from occurring within our borders.

Cordesman further suggests that, "the United States needs to understand that it can only use its influence and its counterterrorism and military capabilities if it changes its image in the Islamic world" (102). As I have also suggested with regard to the Canadian image earlier in this paper, Cordesman acknowledges that "the American image in the Islamic and Arab worlds is a key factor in building popular support and tolerance

for extremist and terrorism movements. This anger against the United States is not directed at its values or "democracy," but rather at tangible issues like the U.S. role in the Arab-Israeli conflict and the Iraq War, and other U.S. policies in the Middle East" (102). If terrorism is to be combated on all fronts, foreign policy actions are certainly an issue that must be addressed.

Andy Knight, in his analysis of the Canadian situation, sagely points out that "if indeed Canada has become a secondary target of terrorists…it is more likely the result of being too closely aligned with the U.S. in terms of ideology, policy and strategy…perceptions of our close association with the U.S. may lead terrorists who would normally target that country to set their "gun-sights" on us" (324). Knight continues with the supposition that "this very real possibility ought to provide us with sufficient reason to distance ourselves, as much as possible, from the negative aspects of the U.S. government's policies" (324).

As a subsidiary response to terrorism, Knight suggests that Canada should seek a humanitarian alternative to U.S. unilateralism through the application of international humanitarian law and human rights law. If Canada is serious about enhancing its reputation as a good international citizen, this is an approach that we can follow in a "quest to prevent terrorism, genocide, war crimes and crimes against humanity" (Knight 330). In the following two chapters on foreign aid and arctic sovereignty I will address how Canada can make good on this suggestion to build our reputation as a good international citizen, and distance ourselves perceptively from American foreign policy

objectives.

The war on terror *should* be viewed less as a physical confrontation, than a conflict between ideas and perceptions of different groups and nations. With this in mind, it is clear that Canada stands to gain a lot by re-developing its image on the global scale in a way that distinguishes itself from American neo-colonialist policy, and establishes itself as trustworthy liason between the global north and the global south. As has been discussed earlier, one of the ways to do this is via our role in international and multilateral institutions. Another way to do this is through our foreign aid policy, particularly humanitarian aid.

Not only is humanitarian aid an opportunity for Canada to regain footing on a positive international note, positive consequences of effective aid can be related to improved security through international stability. Issues which threaten security such as mass migration, disease, over-population and underdevelopment are "unlikely to be successfully managed if mass poverty in developing countries increases" (Pratt 371). As Pratt explains, "there is a new emphasis on the fact that Canada's security is closely dependent on the achievement of a shared human security" (370). More importantly, however, is the concept that security of person and the right to adequate food, clothing and shelter are part of the basic principles of the Universal Declaration of Human Rights to which all persons are entitled and to which we, as a prosperous nation, have the obligation, duty and responsibility to respond to.

Chapter 3 – Foreign Aid

Since its inception in1968, the Canadian International Development Agency (CIDA) has been the vehicle through which most of Official Development Assistance (ODA) is administered (Canada[a] 8). While the establishment of CIDA reflects the compassion that most Canadians feel in respect to bridging the gap in income, health education and quality of life for the less fortunate in our world, there yet remains issues related to Canadian aid performance and effectiveness. In order to address some of these issues, I will firstly examine Canada's aid commitments to determine the extent to which Canada has fallen short of virtually all U.N. aid expectations, despite rhetorically supporting of them. Secondly, I will specifically address the issue of 'tied aid,' particularly tied food aid, and will further analyze how Canada can increase its effectiveness. Thirdly, I will focus on analyzing the feasibility of the proposals of other authors. I will conclude by addressing how Canada can increase aid effectiveness, use humanitarian aid as a means of improving global stability, and security as well as re-establishing Canada's role in the international theatre.

Canadian Aid Commitments

At the Millennium Summit in 2000, world leaders from 189 countries agreed to work towards the eradication of extreme poverty and hunger, gender equality, the treatment of HIV/AIDS, the prevention of environmental degradation and the provision of education, healthcare and clean water on a global scale. Eight Millennium

Development Goals (MDGs) were developed and world leaders committed to the achievement of these goals by the year 2015. As outlined in the first 7 goals, the poorer nations agreed to improve governance, reform policies, and direct aid towards development objectives. Canada agreed to the 8th goal commitments which include delivering more and more effective aid, faster and deeper debt relief and fairer trade rules (UN[a] 1). The Monterrey Consensus in 2002 set out financial guidelines for the international community for improving the effectiveness of development assistance in order to reach the MDGs (UN[b] 2). The Paris Declaration on Aid Effectiveness in March 2005 focused on reforms to improve aid effectiveness in five areas: 1) local ownership and leadership 2) alignment with country development strategies 3) harmonization of donors' institutional demands on recipients 4) managing for results 5) mutual accountability. All donors, including CIDA have agreed to be evaluated in regards to the commitments of the Declaration (OECD[a] 3-8). At the UN World Summit 2005, participants reviewed their progress towards reaching the MDGs.

Although Canadian government has been verbally active and willing to commit to several promises, Canada's performance has fallen short of the goals. Canada's ODA was 0.34 per cent of Canada's Gross National Income (GNI) in 2005, which remains far short of the longstanding international obligation of providing 0.7 per cent of its GNI in ODA (UN[a] 1). Estimates made by the Canadian Council for Economic Development for 2006-2007 and 2007-2008 ODA/GNI ratios are projected to be 0.32 per cent and 0.30 per cent respectively (Tomlinson 1).

While the International Assistance Envelope has grown by 12.4 per cent from 3,237 million in 2004-2005 to 3,637 million in 2005-2006, this downward trend in the ODA/GNI ratio is attributed to Canada's strong economic performance in these years (Tomlinson 1). In May 2006, the Conservative government reaffirmed its commitment in the federal budget to increase federal aid by 8 per cent each year in order to double international assistance by 2011, however, UN projections suggest that this effort will not reach the 0.7 per cent target even by 2010 (Canada[a] 2; UN[a] 2). Generally speaking, however, the trend appears to be that Canadian humanitarian aid is increasing in volume, however, not in proportion to the increase in GNI. CIDA provides a very useful table of actual and projected spending from 2000 to 2006, which follows:

The Conservative government has continued the Liberal promise in 2003 to increase international aid by 8 per cent each year by increasing the 2006-2007 IAE to 3,871 million, however, the UN projects that this will yet leave Canadian ODA very far short of the international target of 0.7 per cent ODA/GNI (Canada[a] 48; UN[a] 1).

The unfortunate truth, however, is that Canada has gained a reputation for being an 'all talk, no action' nation. The 2002 Peer Review of Canada's performance made by the Development Assistance Committee (DAC) of the Organization for Economic Co-operation and Development (OECD) reports that although Canada possesses a "special ability to help lead the international community towards action which pushes out the frontiers of international co-operation," Canada's own aid budget, over the previous six years, had been reduced by 29 per cent resulting in a steady decline, rather than increase, in the ODA/GNI ratio (OECD[b] 1). For instance, this ratio decreased sharply from 0.45

per cent in the early 1990's to 0.25 per cent in 2000 and 0.22 per cent in 2001 (OECD[b] 1). These dismal figures prompted the DAC to report that Canada's performance created a "paradox at the heart of Canada's internationalism" and thus, Canada's ability to meet its international obligations was brought into question (OECD[b] 1). According to the Center for Global Development, low net aid volume in relation to the economy remains a prime weakness for Canada in 2006 (1).

In comparison to other nations, Canada's performance ranks quite poorly. The OECD's ranking of Canada's world position in 2005, using the ODA/GNI ratio showed this quite clearly. While Sweden, Norway, Netherlands, Luxembourg and Denmark top the chart with ODA/GNI ratios of between 0.81 and 0.94, Canada remains at the lower half of the chart with a ratio of 0.34. Belgium, Austria, France, U.K., Finland, Switzerland, Ireland, and Germany contribute between 0.36 and 0.53 per cent of their GNI, which is closer to the OECD donor country average of 0.47 per cent. There are only eight nations that contribute a smaller proportion of their GNI than Canada (OECD[c] 8). Thus, it comes as no great surprise that the UN calls Canada's performance "disappointing," especially given the fact that the 0.7 per cent ODA/GNI target originated in 1969 with Canadian Prime Minister Lester Pearson (UN[a] 1).

Canada's reputation may be further sullied by commitments which have seemingly been shelved. For instance, the Liberal 2005 budget had pledged to increase aid for Africa by doubling funds from 1,380 million to 2,760 million by 2008-09 (Canada[c] 213). However, only a vague reference to Africa is made by the new

Conservative government in CIDA's 2006-07 *Estimates* which states that government will "increase its aid to Africa" and citing that Africa receives about 50 per cent of overall multilateral programming sent to that continent (Canada[a] 31). Since exact figures are not given, it is extremely difficult to come to an accurate conclusion, however, given the vagueness of the statement, it seems quite possible that the Liberal 2005 plan for doubling aid to Africa has been dropped by the new Conservative government.

Recent developments in the dimensions of aid and security since the events of September 11, 2001 may also tax Canada's aid agenda. At the March 2005 DAC meetings, expenditures related to non-military security sector reform, control of small arms and light weapons and conflict resolution are now ODA eligible (OECD[f] 1). In 2005-2006, the Canadian government introduced a new 'Peace and Security' program for Foreign Affairs Canada which includes, among other areas, a counter-terrorism capacity building contribution of $15 million for 2006 (Canada[a] 48). This is in addition to CIDA's Global Peace and Security Fund of $45.5 million, all of which is administered from the International Assistance Envelope (Canada(a) 48). Further OECD/ODA expansions to include reform and training of security and military forces in non-military practices, such as human rights and humanitarian assistance, as well as "peace support operations" by developing country militaries will be discussed in 2007 (OECD[f] 1). It goes without saying that the need for security in war-torn countries is obvious. However, unless Canada's ODA contributions increase significantly, it may further reduce the

contributions of ODA in other areas, such as food aid.

It seems obvious that if Canada is to re-formulate its international image and contribute to global stability, it must begin with effective foreign aid. Over the years Canada's performance in this area has been declining and its reputation as a hypocrite has been growing as a result of its encouraging words but far less meaningful course of action in regard to less developed states. According to Pratt, there has been a "shift in Canadian values away from liberal internationalism and towards narrow preoccupation with immediate national self-interest" (336). If this trend continues, Canada must abandon the rhetoric of being a moral leader and liason between the poor and wealthy states of the world or it stands to face widespread distain and ridicule for its obvious and unsubstantiated delusions of itself. Some may argue that the UN goal of 0.7 per cent ODA/GNI ratio is unreasonable to attain (Stairs et al). I counter that argument by pointing at the obvious success of other nations, such as Sweden, Norway, Denmark, and Luxembourg, who have not only reached this goal, they have surpassed it. Although these nations have a much smaller land mass to maintain than Canada, it certainly remains no excuse for Canada's exceptionally poor performance in this area. If, however, increasing the ODA/GNI ratio is not viable, another option would be to re-formulate Canada's international identity with meaningful and less self-interested strategies that fall more in line with its internationalist rhetoric. Let us examine how this can be done in a bit more detail.

Tied Aid

Humanitarian aid is obviously a morally compelling issue. Aid effectiveness, however, has been at the heart of much debate of late, and there have been no lack of opinions as to how aid should be improved (Booth 1-2; de Renzio and Rogerson 1-2). Tied aid, particularly, is an area that is in dire need of reform as it substantially affects cost effectiveness, aid effectiveness and Canada's image abroad. According to the Development Assistance Committee (DAC), tied aid "includes loans, grants, or associated financing packages with a grant element greater than 25 per cent and defined as aid which is in effect (in law or in fact) tied to the procurement of goods and/or services from the donor country and/or a restricted number of countries" (60). Aid restricted to procurement from the donor country is considered tied, while aid restricted to procurement from the donor country and substantially all developing countries is considered partially tied aid. Conversely, untied aid is defined as procurement open to substantially all countries (OECD 60).

Restrictions involved with tied aid "reduce the degree of competition in the supply of foreign aid and services" (Osei 350). Osei further points out that these restrictions possibly represent an "abuse of market power" designed to deliver excessive profit to donors through higher prices on tied goods and services, which among other issues, has been the cause why international aid for development is "fraught with disillusion and distrust" (350). According to de Jonquières, it is of the utmost priority for the private business sector in donor countries to secure contracts for the supply of goods and services, which reflects the economic muscle behind humanitarian assistance.

However, higher costs for the recipient country consequently reduce aid effectiveness. ActionAid, an international development agency, estimates that 39 per cent of Canada's contribution in 2004-2005 was 'phantom' aid that was lost through high-priced consultants, administrative costs and expensive goods and services from Canada (ActionAid 17). Lifuka acknowledges that, "[w]hile it is fair to say that the quantities of official development aid to poor countries have increased in recent years, there has also been a corresponding increase in conditionalities tied to aid…In such an environment even if aid is doubled, it cannot achieve much because of the harsh conditionality that comes with it" (9).

In a study performed by the African Development Bank, a case study on Ghana was performed over a seven year period, from 1990-97 in regards to tied-aid imports as compared to non-aid imports. During this time period aid tying was most predominant with investment project assistance (IPA); donors included Japan, UK, USA, Germany, the Netherlands, France and Canada (Osei 352). Over the seven year period, the estimated price differentials between tied aid and non-aid imports, was calculated to be a cost of $350 million or 40 million per year (Osei 358). Since aid imports to Ghana averaged approximately $80 million per year, the average annual costs of aid tying of $40 million reduced the level of aid imports substantially (Osei 359). Osei reports that "the level of aid imports could have been one-and-a-half times the level actually experienced if the prices of aid imports had reflected those of non-aid imports" (359).

While the donor countries prices may have reflected a 'risk' factor, if the

investment climate is uncertain in a recipient country such as Ghana, the study appears to suggest that the "basic subsidy involved in aid from the bilateral sources is being captured by private exporters in the donor countries, rather than Ghana, for whom it was intended" (Osei 360). Thus it appears that tied aid largely reflects the self-interests of the donor countries rather than providing real benefit to the recipients. Although this data is based on data gathered between 1990 and 1997, the results obtained are certainly reflective of a situation that still exists in the current global environment. Not only is this data reflective of the lack of real concern that most donor countries have with aid effectiveness, it is illustrative of the dramatic loss of effectiveness that tied aid has in the real world. Pratt, in fact, confirms that self-interest, rather than humanitarian concerns have been at the heart of Canadian aid policy decisions:

> This assistance was presented by the government to the Canadian public primarily as a humanitarian undertaking and has been supported by this public and by Parliament with that understanding. Most commentators on Canadian aid, however, see these policies as having been shaped by quite different considerations. The long-term interests of capitalism in Canada, the importance attached by senior decision makers to Canada's major alliances, changing views on foreign aid within the OECD, the dominant ideology among senior decision-makers, immediate commercial gains, and bureaucratic self-interest have each been emphasized by different authors. However, almost all have agreed that humanitarian considerations have not been a major determinant of Canadian aid policies (337).

Although some tied aid restrictions have been lifted since that time, particularly with least developed countries (LCDs) (which will be addressed below), food aid "continues to be overwhelmingly tied, 90 per cent or more" (OECD[d] 1; Clay [a] 40). At the Millennium Summit in September 2000, Canada along with the international

community, committed to halving the number of people who suffer from hunger by the year 2015 (UN[c] 1). Additionally, a consensus has been reached that alleviating hunger and malnutrition in developing countries increases global stability (Clay[a] 9). One possible step toward the goals of reaching these MDGs, increasing aid effectiveness, and boosting Canada's reputation among the nations of the global south is untying food aid.

In order to further examine this issue in terms of Canadian tied food aid, it seems necessary to distinguish between modes of food distribution:

Direct transfers include all food aid originating from a donor country and are unquestionably considered to be tied aid. Most food aid from Canada is delivered through direct transfers as Canada has regulations governing food aid and operations which require procurement within the Canadian territory (Clay[a] 40-41).

Triangular purchases occur when food aid is purchased or exchanged in one developing country for use in another developing country, however, on occasion some open tender contracts are sourced in OECD countries (Clay[a] 41). These goods are usually purchased with unrestricted funds or relatively unrestricted funds and if purchased in a competitive environment, are considered to be the most closely defined as an unrestricted commercial transaction (Clay[a] 41).

Local purchases are food aid purchases made in a country to be used by that same country and is rational when availability and price are below import costs, however some donors specify local procurement, which effectively amounts to aid tying (Clay[a] 42).

Not surprisingly, Canada's direct transfer percentage tops the international

community. In a food aid efficiency study performed by the OECD, survey data revealed that 94.9 per cent of total Canadian donor tonnage was sent by direct transfer, 3.2 percent was procured through local purchases and 1.9 per cent was obtained through triangular purchases in 2002 (Clay[a] 47). Only the U.S. ranked ahead of Canada with a direct transfer percentage rate of 99.6 per cent (Clay[a] 47). It must be noted, nonetheless, that in 2003 Canada increased the sourcing of commodity tonnage through local purchases and triangular transactions to 10 per cent and 16 per cent in 2004 (Clay [a] 47 Clay[b] 3).

The overall inefficiency cost of food aid was further calculated based on the total aid delivered by 16 donor countries in 2002. The results showed that, globally, tied food aid was approximately 30 per cent more costly than an equivalent amount of commercial imports. Additionally, the actual costs of triangular purchases and local transactions were about 33 per cent and 46 per cent less than those of tied direct aid (Clay[a] 49). The donors with the highest Resource Transfer Efficiency (RTE) ratio, that is, those who were the least cost-effective in sourcing, were Australia (158), Belgium (147) and Canada (138) (Clay[a] 49). According to Clay[a], "the most cost effective donors….. have formally untied their food aid or have the least restrictive procurement rules. This group includes Germany, Netherlands, Norway, Sweden, Switzerland and the UK" (50).

The study thus concluded that *direct transfers* generally generate higher costs and are typically more inefficient transfers, *triangular transactions,* although sometimes subject to restrictions on sourcing to specific countries, are closer to commercial costs and *local purchases* offer a significant opportunity to lower costs (Clay[a] 57). Clay[a]

emphasizes that the donor cost of providing tied aid in the study should be considered conservative or "lower limit" as other costs such as administrative costs of organizing acquisition, processing and shipping, internal transport from port or border to centres for distribution or sale, storage and handling and sales costs for monetized or programme aid were not reflected in the efficiency calculations (65).

Benefits of Untying Food Aid for Recipient Countries

Thus untying of food aid in favor of less restrictive sourcing has the potential for considerable efficiency savings and increased food volumes for the recipient. Other possible benefits include the growth of local processing which could be more sensitive to the particular needs of the community, as some northern processed foods such as potato flakes, require high volumes of water for preparation, which is inappropriate in many developing nations (Clay[a] 59). Exiting or transition strategies from programmes such as emergency aid, school feeding and mother/child health can also be more difficult to plan when aid is tied. A smooth transition to local sourcing is sometimes obstructed, or sometimes projects, such as school feeding remain dependent on continued provision of tied aid (Bennett 36). In addition, local food preferences in recipient countries are often overlooked where aid is tied. The provision of yellow maize in Southern and East Africa is often unacceptable, as white maize is strongly preferred and not all rice varieties are accepted in West Africa (Clay[a] 61). More importantly, however, efficient and timely food aid is absolutely required in emergency situations. Tying food aid reduces the flexibility to obtain food in areas closest to the affected areas, thus increasing delivery

time (Clay[a] 61).

OECD Recommendations

As previously mentioned, the Development Assistance Committee (DAC) of the OECD adopted a Recommendation on untying aid in 2001. The agreement commits donors to untie aid in seven areas to Least-Developed Countries (LDCs). These areas include balance of payments and structural adjustment support; debt forgiveness; sector and multi-sector program assistance; investment project aid, import and commodity support; commercial services contracts and ODA to non-governmental organizations (NGO) for procurement-related activities. This agreement does not apply to food aid, all free-standing technical cooperation and management services arrangements (OECD[d] 5).

The Canadian government's present policy is one that straddles both the perspectives of those in favor of tied aid and those who are advocates of untied aid (Canada[d] 19). In regards to food aid, only 10 per cent of CIDA's food aid budget is permitted to be spent in other countries, but only in emergency or special circumstances. Approximately 40-60 per cent is spent on food produced in Canada, while the remaining budget is spent on transportation within Canada or to other countries (Canada[d] 19). Thus, the majority of Canadian food aid remains tied. Non-food aid remains mixed. The Canadian Partnership Branch delivers support only through Canadian-based organizations or institutions, while aid delivered through bilateral channels was subject to a 1987 policy which specifies limits of untied aid of 50 percent for sub-Saharan African countries and Least Developed countries, as well as 33 per cent for all other developing

countries (Canada[d] 1). The latter policy has since been changed to conform to the OECD-DAC policy of untying aid to Least Developed Countries in seven areas (Canada[d] 20).

It is interesting to note that Canada's Policy Statement includes 'ancillary' benefits of aid tying which include,

1) a positive domestic economic impact for the donor from aid programs.
2) the involvement of Canadian firms helps to project a positive Canadian image abroad.
3) Untying aid raises concerns that Canadian aid flow will benefit companies in other countries, with no guarantee of "reciprocity of treatment" (Canada[d] 19).

While Canada seems to profess to want to aid the less fortunate, the economics of self-interest seems to be prominent in policy-making decisions. The first and third point are strictly related to Canadian self interest, and the second point is simply a fairly weak excuse to rationalize the status quo for two reasons: 1.) Canada's image would certainly be better enhanced internationally if it was seen that we weren't so preoccupied with profiting from our 'aid' 2.) Even if aid is bought from another country, it could easily be stamped as 'donated from Canada' to avoid any confusion as to where it was actually from. Ultimately, as we have concluded previously, in the current global framework, it is vital for Canada's image to be bolstered for the purpose of security, but this is a relatively self-interested and round-about way of doing this.

In 2005, for the first time, CIDA published its estimate of Canadian tied aid. While tied aid has been reduced from its level of 75 per cent in 2000 to approximately 47

per cent (as per OECD standards) in 2003, it is only reflected in the areas specified by the OECD which does not include food aid (Canada[b] 15). As of March 2006, DAC announced a further step to untie more aid in regards to an exception concerning small contracts of less than $1 million. By lifting this exception the DAC hopes to free an additional $440 million of tied aid and estimates the present share of total untied ODA to be 42 per cent (OECD[e] 1). While this is certainly an improvement, it ultimately does not amount to a significant enough change to warrant a turn-around in perceptions of Canadian aid – especially since levels of tied food aid will remain high.

It could be argued that untying aid would necessarily constitute a small hit to the economic well-being of the donor country, it is probably not a particularly justifiable position for a number of reasons. Again, countries such as Norway, Sweden, Netherlands and Switzerland, with substantially lower GDPs than that of Canada, seem to be doing reasonably well despite having substantially untied their aid to less developed countries. Secondly, Canada has exhibited a strong economic performance in recent years, thus untying aid could possibly be quite insignificant in regards to economic downturn. By untying Canada's aid, particularly food aid, Canada can not only increase aid effectiveness in the world, but re-establish a more constructive role in the international playing field, a role that is fitting for Canada and Canadians. Canada needs to take forward steps in asserting positive actions that have the capacity to counter-act terrorism by creating a more stable global arena.

Other opinions

Rather than a top-down donor approach, some advocates of increasing aid

effectiveness propose a bottom-up approach to reducing poverty. De Renzio and Rogerson suggest that developing countries should be offered a "genuine choice" in aid options which will give them a comparative advantage (1). The argument presented here is that the "lack of a clear regulatory environment, or a market mechanism to force a more rational 'division of labor' among the various agencies involved generates a number of inefficiencies" (de Renzio and Rogerson 1). Developing countries would be required to have access to donor information such as type, delivery timeframes, volume and reliability capabilities, as well as a complete analysis of availability of professional experience provided. Knowledge of the donor sensitivity to country ownership, sovereignty, mutual trust and willingness to adapt to existing country systems would also be necessary, as well as the nature costs and risks of donor conditionalities (de Renzio and Rogerson 1).

Donor countries, on the other hand, would necessarily have to permit independent individual country assessments processed through a neutral agency and would thereby be more transparent. An efficiency forum to evaluate aid effectiveness and accountability would have to follow by the possibility of opening DAC to full membership by developing countries, streamlining the UN's Economic and Social Council (ECOSOC) and perhaps developing a surveillance committee from within the World Bank (de Renzio and Rogerson 2).

While this seems like a very case-personalized and thus probably a fairly effective way of conducting an aid program, it is also a massive makeover to the current system that would minimally involve the creation of a new aid infrastructure and new watchdog

organizations. Nor would this likely allow Canada to stand out in the international community in terms of its commitments, which, I would argue, should be an extremely critical objective of Canada's foreign aid policies. Relinquishing its ability to determine which countries get what aid would not only eliminate Canada from a very visible part of the aid process, but would also dis-allow Canada from being able to allocate aid in accordance with what would best suit our world image.

While increasing and untying aid are starting points for Canada, it cannot go without saying that other changes for donors and recipients must necessarily follow if aid is to truly become more effective. Richards proposes several recommendations for increasing aid effectiveness:

1) Attention and aid only to countries devoted to good governance in order to reduce the possibility of corruption of projects. This tactic would necessarily require a tougher attitude on the donor country's behalf, as well as the possibility of imposing conditionality (20).
2) Consider reducing bilateral aid to a few countries only, in order to gain some host-country influence in decision-making and to make a bigger impact. Although CIDA has begun this process already by committing two-thirds of bilateral aid to 25 countries instead of 100 by 2010, this timeline could be hastened (21).
3) Focus aid expenditures on providing in areas of Canadian strengths, such as health and education services (23).
4) Reduce barriers such as high tariffs against developing country exports. Although some exports may be manufactured under 'sweat shop' conditions, employees generally make above-average wages as compared to those who remain in the village, encourage entrepreneurship, and "provide foreign exchange to import usable technology" (24).

In the current political climate, national security runs paramount in the minds of most leaders of the world. A country's international image and reputation mean a great deal

more than they used to in terms of its security, and its likelihood of being a terrorist target. For this reason, while it is vital that Canada continues to focus on ways to secure itself against the possibility of a terrorist attack, it is also just as vital to shift away policies that are likely to shape perceptions of Canada as "second-rate Crusaders" as we were characterized by Osama Bin Laden's deputy, Ayman Al-Zawahiri in October, 2006 (Bell 1). In doing so, we must formulate a new identity that is more inline with internationalist and humanist values, is more acceptable within the ever-more-important framework of global opinion, and above-all, is not simply empty rhetoric as many Canadian initiatives have been in the past.

By evolving its aid program into a truly unselfish venture, and pressing for similar changes within the global community, Canada stands to gain a significant international recognition, especially from those nations in the Middle East, South and Southeast Asia where discontented terrorist cells are a more significant threat due to economic dispossession, the lack of political freedom, the spread of Wahhabism and Salafi Islam, and the failure of secular education (Abuza 428).

Furthermore, by reformulating our foreign aid policies in this type of direction, we stand to lose very little in terms of economic sacrifice, but stand to gain a significant amount with regard to security, national identity, and pride in the long term. Furthermore, it will provide a much-needed focus for our foreign policy as a nation. Rather than waiting for the world to react to crisis, and then seeing what roles are left to fill in, Canada will be able to see a crisis such as a famine in Sudan or a tsunami in

Indonesia, and immediately move into action with a clear objective and a firm grasp of what needs to be done.

Chapter 4 - Arctic Sovereignty

One further problem looming on the Canadian foreign policy horizon is the issue of Arctic sovereignty. While speaking in the Nunavut legislature in August 2006, Prime Minister Stephen Harper promised to secure Canada's claim to the Northwest Passage, saying that "[t]he economics and the strategic value of northern resource development are growing more attractive and critical to our nation" (Harper Promises 1). Furthermore he warned that "it's not only Canadians who are noticing. It's no exaggeration to say that the need to assert our sovereignty and take action to protect our territorial integrity in the Arctic has never been more urgent" (Harper Promises 1). In this chapter, I will examine the legal challenge for attaining sovereignty and thus security over Canada's Arctic and Northwest Passage, determine the probability, and suggest a course of action that is concurrent with the reformation of Canada's foreign policy goals and cognizant of sustaining the international image that I have suggested Canada should foster in the previous chapters.

The waters of the Northwest Passage have drawn more international attention in recent years and Canadian claims to sovereignty over the waters of the Canadian Arctic archipelago have not gone unchallenged (McRae[a] 431; Pharand[a] 124). Recent technological developments and the advent of global warming have resulted in a wide consensus that the commercial and military exploitation of the frozen Arctic is indeed an impending reality. Climate change is perhaps the critical factor which has

renewed international interest in the Northwest Passage as a viable shipping route and international waterway. While there has certainly been limited use of the NWP to date, the possibility of increased international activity, due to a more easily navigable passage, could significantly reduce Canada's rights to sovereignty and security in the waters of the Canadian Arctic Archipelago.

While it is difficult to accurately predict when the Northwest Passage will become a navigable summer route for commercial traffic, the Global Ocean Observing System maintains that the permanent Arctic ice in the Canadian Archipelago could disappear within 20 years (cited in Laserre 147).

The main attraction of the Northwest Passage for the shipping industry is that it is approximately 8000 kilometers shorter than the current route from Asia to Europe or the east coast of the United States via the Panama Canal. As well, it has been demonstrated that the Northwest Passage could accommodate supertankers of at least 120,000 tons (Huebert[a] 8) and would thus shorten the voyage for oversized vessels that cannot navigate the Panama Canal and must currently sail an even farther passage around Cape Horn. The Canadian objective is "not to prevent such transits," as past governments have indicated; rather their desire is that "controlled traffic does have access through the Northwest Passage" (McRae[a] 439). The primary concern is that such transits should occur with Canadian consent and be in accordance with Canadian regulations (McRae[a] 439). International traffic may not only include vessels from the U.S. and Europe; there have been indications since the 1990s that Japan is also interested in Arctic navigation (Huebert[a] 8). Not only have the Japanese invested a substantial amount of money into

polar research and development, they were among the nations which conveyed an interest in the purchase of the Canadian ice-strengthened oil tanker *Arctic* when it was being sold (Wuethrich 1827).

The international disputes which have enveloped the waters of the Arctic complicate the issue of 'rights' to the passage. This chapter will thus assess Canada's legal status in regards to the waters of the Northwest Passage in the light of the International Law of the Sea and determine how Canada should react to challenges to Canadian Arctic sovereignty in order to maintain a secure and monitored sea passage in our northern waters. In order to fully determine if sovereignty and security can be secured through legal means, I will address three areas relevant to sovereignty and the International Law of the Sea, including historic title, straight baselines and consolidation of title and the issue of international straits.

Historic Title

In December 1973, the Legal Bureau of Canada's Department of External Affairs Canada claimed that "the waters of the Canadian Arctic Archipelago are internal waters of Canada, on an historical basis, although they have not been declared as such in any treaty or by any legislation" (Canada[g] 1). In 1975, the secretary of state for external affairs confirmed this stance on the issue when he stated, "[a]s Canada's Northwest Passage is not used for international navigation and since the Arctic waters are considered by Canada as being internal waters, the regime of transit does not apply to the Arctic" (MacEachen 6).

The concept of historic waters developed during the nineteenth century and has

been preserved in the Convention on the Territorial Sea and Contiguous Zone of 1958 as well as in the 1982 Convention on the Law of the Sea (Pharand[b] 758). Although the role of historic waters in international law has been considerably reduced since the approval of the straight baseline system for coastal archipelagos by the International Court of Justice in the Anglo-Norwegian Fisheries Case of 1951, as well as the incorporation of a maximum 24-mile closing line rule for bays in the Territorial Sea Convention of 1958, historic waters do continue to be recognized in international law. However, the Law of the Sea Conventions do not specify the terms of legal requirements for the determination of historic title (Pharand[b] 759).

The case of United States v. Alaska established the criteria for determining the validity of an historic waters claim. In Alaska, the Court held that, in order to be deemed historic:

> (a) the claimant state must exercise authority over the waters historically,
> (b) the authority must be exercised continuously (Perry 666) or long usage or passage of time (Pharand[a] 97),
> (c) foreign nations must acquiesce to its exercise (Perry 666).

According to Professor Gidel, the type of manifestation of sovereignty which would provide convincing evidence for the first requirement includes "the exclusion from these areas of foreign vessels or their subjection to rules imposed by the coastal State which exceed the usual scope of regulations made in the interests of navigation" (633). However, it should be pointed out that this is not the only act of authority which may afford evidence. Usually, these types of actions are preceded by national legislation which "forbids the entry of foreign ships and subjects them to certain conditions"

(Pharand[a] 98). Although the State must express its desire by actions, not merely by proclamation, very little action is needed to manifest effective control as long as its laws and regulations remain unchallenged (Pharand[a] 98).

For the second requirement, the determination of an exact or minimum length of time for the classification of 'long usage' is not clearly set out by the ICJ, therefore it is impossible to know how long authoritative control must be established before historic title is legally recognized (Pharand[a] 98). Common terms used to describe the length of time required for this requirement include 'well-established usage', 'continuous usage of long standing', 'continued and well-established usage', 'immemorial usage', and usage from time 'immemorial' (Pharand[a] 98). Certainly, it can be said that the longer authoritative control is maintained, the "firmer the title becomes" (Pharand[a] 98).

Generally speaking, two views are held with regards to acquiescence. Some parties have a stricter view, requiring some form of consent or recognition of the sovereignty of the State which must come from the States affected by the claim, while others maintain that an absence of protest is enough to result in acceptance of historic title. It is thus possible to assume that if there has been "total toleration, an historic title to sea areas might well arise" (Pharand[a] 100).

Nevertheless, even after a long period of total toleration, an effective protest by another State would disprove the presumption of acquiescence. It should be noted that the "mere raising of an objection in an indirect way would not suffice" and that "a formal objection to the specific points at issue is necessary before it can constitute a valid

protest" (Pharand[a] 100).

If the above requirements for historical title have been met, coastal States often strengthen their claims by invoking vital interests, where factors such as geographical configuration, immemorial usage, defense, commerce and industry are important to the area (Pharand[a] 102).

Ultimately, in order to qualify for historic title the coastal state must exercise an effective control over the maritime area being claimed to the exclusion of, and acceptance by all other states (Pharand[b] 759). However, legal proof of this becomes reasonably complicated, and dependent upon each individual situation.

For example, the extent of control will vary, depending on individual factors such as the area's size, remoteness, and degree of usability. In remote areas, such as the Canadian Arctic, it is argued that actual control might be limited, but yet sufficient (Pharand[b] 759). Indeed, as O'Connell states, "in the case of remote and little used seas, very little in the way of effective exercise of sovereignty need be required to show that a state took the action necessary to assert and maintain its authority and control over the area" (428).

Canada's Claim:

While it may be said that before the transfer of islands from Great Britain to Canada, virtually all the waters of the Arctic Archipelago were discovered by British explorers and were subsequently patrolled by Canadian officials of the Arctic Patrol from 1922 to 1958, followed by the Canadian Coast Guard, it must be acknowledged that the explorers of both nations confined their possessions to lands and islands (Pharand[a]

122). Neither has Canada always demonstrated the necessary requirement of exclusive control and maintenance of sovereignty in the Arctic. This sentiment is echoed by Perry, who points out that '[w]hile Canada's control over its mainland Arctic has been exercised undisputed since the formation of the Northwest and Yukon Territories in 1939, its authority over the Arctic islands may be portrayed as more ambiguous than continuous" (666). Scovazzi suggests that while Canada's claims are understandable as a means of maintaining control of navigation, the "Canadian claim of a historic title to the waters of the Arctic Archipelago is questionable" (80). While there is some evidence for a longstanding exercise of State authority and acquiescence by other States for the Hudson Bay, the Canadian practice for other Arctic waters is more ambiguous. A clear assertion of a historic claim is not compatible with such uncertainties (Scovazzi 80).

Nor has Canada received the acquiescence of other States, particularly the United States. In fact, "the United States has declared outright that it will not acquiesce in unilateral acts of other states designed to restrict the rights and freedoms of the international community in navigation, and therefore rejects all Canadian sector claims in the North" (Perry 666). In 1970, the U.S. formally protested Canada's Arctic Waters Pollution Prevention Act, as well as, Canada's extension of its 12-mile territorial sea (Pharand[a] 124). When the U.S. protest note suggested that the "matter be submitted to the International Court of Justice for adjudication" (Pharand[a] 124), Canada responded by partially withdrawing of its acceptance of International Court's jurisdiction, to prevent the testing of the international validity of this action. Unfortunately, this withdrawal

could be interpreted as "implying a doubt as to the precise legal status of the waters of the Archipelago" (Pharand[a] 252). The most damaging part of the withdrawal is the fact that the new legislation covered all the waters within the Arctic Archipelago north of the 70th parallel, as well as a strip of 100 miles outside of the Archipelago. Pharand suggests that, "[i]f these waters had been really considered as internal waters of Canada, over which it claimed as complete a sovereignty as it did over the lands and islands of the Archipelago, there would have been no doubt as to Canada's jurisdiction to adopt such legislation for the waters within the Archipelago" ([a]125). Clearly, the history of disputes which have characterized Canada-U.S. Arctic relations, does not indicate international acquiescence.

A special burden of proof is required from the claimant State if historic title is the sole basis for a claim of maritime sovereignty as it is "a claim in derogation of the general rules for the acquisition of such sovereignty" (Pharand[a] 105). Furthermore, there has generally been a tendency to discourage the application of historic title to ocean areas in modern periods of international law when it is based solely on historical records. Since Canada has not received recognition of this claim from other States, it appears a rather "artificial line of legal argument to pursue" (Johnston 147).

Perry summarizes his argument by stating that,

> Canada's claim to sovereignty is unlikely to be derived from a ruling that the Arctic contains historic, internal waters. While Canada may be unable to demonstrate with clarity that it has historically exercised unchallenged authority over the Arctic islands in accordance with Alaska, the historic reality of Canada's presence in the Arctic cannot be denied. The legal significance of this involvement is better advanced under a claim of sovereignty through the historic consolidation of title (666).

In consideration of the requirements and arguments mentioned above, it would appear that Canada would not succeed in securing sovereignty over the waters of the Northwest Passage by invoking a claim of Historic Title. One of the difficulties rests with the fact that early historical control was limited to lands and islands, not waters. Although the Arctic area is remote and perhaps lesser amounts of management would be necessary for effective control, the United States refuses to recognize Canada's Arctic claims, which ultimately means that Canada cannot fulfill the third requirement. I have to agree with Perry's conclusion that Canada's claim that it has historic title to the waters of the Canadian Archipelago does not appear to meet the strict requirements of international law, therefore Canada does not appear to have a valid case for internal historic waters (666).

Straight Baselines and Consolidation of Title

In its first Royal Decree in 1812, the Norwegian state developed the straight baseline method of delimiting territorial waters (Killas 105). In 1935, Norway produced another Decree which reserved certain fishing grounds off its coast for the exclusive use of its own fishermen (ICJ[a] 1). These developments led to a judgment by the International Court of Justice in the 1951 United Kingdom vs. Norway Fisheries Case. This ended a long controversy about whether this Decree, which laid down a method for drawing straight baselines in the determination of Norwegian territorial waters, was valid in international law. In its final judgment, the Court found that neither the method, nor the actual baselines were contrary to international law (ICJ[a] 1). The system was

adopted by International Court in the Fisheries Case and was included in the Convention of the Territorial Sea of 1958 as well as UNCLOS III (UN[e] Art. 7) where it was expanded to include mid-ocean or oceanic Archipelagos (Archipelagos which are located at some distance from any mainland and are considered an independent whole or Archipelagic State). It is important to note that Canada does not fit within the definition of 'Archipelegic State', since it is not a country wholly comprised of groups of islands (Killas 122).

UNCLOS III does, however, include the provision for customary law in Article 2 of the Convention, which states, "[t]he sovereignty over the territorial sea is exercised subject to this convention and other rules of international law" (UN[e] 1).

The Canadian Argument

In Clark's September 10th 1985 address to House of Commons, he stated:

> The exercise of functional jurisdiction in Arctic waters is essential to Canadian interests. But it can never serve as a substitute for the exercise of Canada's full sovereignty over the waters of the Arctic archipelago. Only full sovereignty protects the full range of Canada's interests. This full sovereignty is vital to Canadian security. It is vital to Canada's Inuit people. And it is vital to Canada's nationhood. The policy of this government is to exercise Canada's full sovereignty in and over the Arctic archipelago. We will accept no substitutes (Canada[h] 1).

The same day Clark addressed the House of Commons claiming that,

> Canada is an Arctic nation. The international community has long recognized that the Arctic mainland and the islands are a part of Canada, it is a part of Canadian greatness. The policy of the Government is to preserve that Canadian greatness undiminished. Canada's sovereignty in the Arctic is indivisible. *It embraces land, sea and ice.* It extends without interruption to the seaward-facing coasts of the Arctic islands. These

> islands are joined, and not divided, by the waters between them. They are bridged for most of the year by ice. From time immemorial Canada's Inuit [sic] people have used and occupied the ice as they have used and occupied the land. The policy of the Government is to maintain the natural unit of the Canadian Arctic archipelago and to preserve Canada's sovereignty over land, sea and ice undiminished and undivided (Canada[h] 1).

Immediately after Clark's address to the House, the Canadian government passed an order-in-council establishing a system of 145 baselines around the perimeter of the Canadian Arctic Archipelago, effective January 1, 1986 (Canada[i]). While the average length of these segments is forty-three sea miles, they rarely extend more than twenty-four nautical miles from the coast (Killas 125). The purpose of these baselines is to define the outer limit of Canadian historic internal waters and emphasize the claim that Canadian territorial waters extend 12 miles seaward from these baselines (Canada, Debates). These baselines were drawn largely in response to the voyage by the Polar Sea, a United States Coastguard ship, through the Northwest Passage (Scovazzi 77). This voyage was made without Canada's authorization and was based on the legal assumption of freedom of passage in international straits or freedom of navigation which is applicable to the high seas (Scovazzi 77).

The United States, however, refuted the drawing of straight baselines by claiming that, "there is no basis in international law to support the Canadian claim. To do so would constitute acceptance of full Canadian control of the Northwest Passage and would terminate U.S. navigation rights through the Passage under international law" (quoted in Scovazzi 79).

On July 9, 1986, the European Community also joined together to contest Canada's claim. The member States claimed that, "the Canadian baselines did not conform to the geographical requirements set by international law (Scovazzi 80). As well, "it rejected that there existed a historic title that justified the baselines as drawn in the Order" (Scovazzi 80).

The Canadian Department of External Affairs replied to this issue on August 7, 1986 by emphasizing the special features of the area:

> The baselines give precise definition to Canada's historic title to the waters and take into account the unique geographical, climatic, physical. and ecological characteristics of the area. They reflect the close relationship between the islands and waters of the archipelago and their unity with the mainland as its northward prolongation or projection, the absence of customary international navigation through channels that are ice-covered for all or most of the year, and the economic interests peculiar to the region concerned as clearly evidenced by long usage. (quoted in Scovazzi 80).

The question remains, does Canada have a strong and valid case for the drawing of straight baselines around the Arctic Archipelago in order to claim the waters as 'internal'? At this point it seems necessary to examine the requirements as put forth in UNCLOS III, as well as customary law.

Requirements for Straight Baselines

The necessary criteria for the drawing of straight baselines, which may be adapted to diverse situations, are noted in Article 7 of the 1982 Convention which states that,

> (1.) In localities where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity, the method of straight baselines joining appropriate points may be employed in drawing the baseline from which the breadth of the territorial sea is measured...
>
> (2.) The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters....
>
> (3.) Where the method of straight baselines is applicable under paragraph 1, account may be taken, in determining particular baselines, of economic interests peculiar to the region concerned, the reality and the importance of which are clearly evidenced by long usage.
>
> (4.) The system of straight baselines may not be applied by a State in such a manner as to cut off the territorial sea of another State from the high seas or an exclusive economic zone (UN[e] 1).

It is important to note that neither the Norwegian *Fisheries Case*, nor the 1958 Convention or the 1982 Convention assign any maximum length for straight baselines which enclose coastal Archipelagos (Killas 126).

After the approval of straight baselines by the International Court of Justice in 1951, the practice of implementing straight baselines to delimit the territorial sea became more common, so that by 1985, 60 coastal States had used this system and 12 more States adopted the legislation to implement it (Pharand, Can. 147). The Archipelagos involved did not necessarily fit into the two categories which are provided for in UNCLOS III. Of the Arctic States, Norway, Denmark, former Soviet Union and Canada have all made some use of straight baselines to measure territorial sea (Pharand[a] 158).

Requirements for Consolidation of Title

Consolidation of title has been previously invoked as a supportive claim for the straight baseline system, as in the *Fisheries Case of 1951* with the end result that the waters within the straight baselines are considered internal waters, therefore it will also be examined at this point (ICJ[b] 130). Since the doctrine of consolidation of title is not the sole ground for a claim of sovereignty, the requirements are less stringent than for the acquisition of an historic title in that no special burden of proof is applied to the claimant State (Pharand[a] 142, 146). The first requirement is the exercise of State authority, which can consist of legislation or regulations; the second is long usage or passage of time, the length depending on the circumstances; the third is a general toleration or absence of formal protest by those foreign States which are affected (Pharand[a] 146). A valid protest could prevent a consolidation of title, however, Pharand claims that this protest would necessarily have to be stronger than in the case of historic title ([a] 146). Vital interests may also be invoked, such as the vital needs of the inhabitants, the special geography of the coast, or the economic considerations (Pharand[a] 146).

Where a claim is to a sea area, States may refer to either of two cases from the International Court of Justice, the *Grisbadarna Case* of 1909 or the *Fisheries Case* of 1951. The *Grisbadarna Case* involved a maritime boundary dispute between Norway and Sweden where the main basis for the Court's decision was the previous boundary treaty of 1661. The Court then "invoked history as an additional and complementary basis to justify Sweden's sovereignty over the banks" (Pharand[a] 140). In the *Fisheries*

Case, history was first used to justify its straight baseline system, then was invoked as an additional supportive element in that it had been applied for some 80 years, thus being consolidated by a constant and long practice. The Court also held that the fishing and hunting rights of the inhabitants of the area justified the baseline boundaries "by way of consolidation of title" (Pharand[a]. 142).

Canada's Claim in the Arctic Archipelago

Since it is doubtful that Historical Title can be proven, it seems best to examine if Canada's status of internal water can be established through the application of straight baselines, along with consolidation of title. Three areas will be examined, firstly, the geography of the Canadian Arctic Archipelago, secondly, the baselines with regard to following the general direction of the coast and close link between land and sea, and thirdly, consolidation of title.

Geography

The triangular-shaped Canadian Archipelago is one of the largest in the world. It, "stretches some 3000 kilometres along the mainland coast and its apex, the tip of Ellesmere Island, is less than 900 kilometres from the geographic North Pole (cited in Killas 113). It is comprised of 73 major islands and as many as 18,114 smaller ones which are mostly mountainous in character (Killas 113). On the eastern mainland, small bays and basins break the coast, particularly, the Hudson Bay, which deeply penetrates the mainland. The western mainland is also indented by many bays and gulfs. In addition to the irregular coastline, nearly all of these waters contain innumerable islands,

reefs and rocks rendering it impossible to draw a clear dividing line between land and sea (Pharand[a] 160). The islands of the Archipelago are deeply indented with bays, and gulfs and "traversed by numerous straits, sounds and inlets…the whole being fused together by an ice cover most of the year" (Pharand[a] 177). The Inuit people travel over this continuous ice pack via dog sled or snowmobile, seeking out their livelihood from hunting and fishing. According to Pharand, this ice-covered Archipelago constitutes "the outer coast of the country" ([a]160).

So the question remains: is the geography of Canada's northern coast of a similar peculiar nature which would warrant straight baselines? According to Pharand, "The specific question is whether the northern coast of Canada 'is bordered by an archipelago such as the *skjaergaard*,' as the International Court put it, or constitutes a 'fringe of islands along the coast in its immediate vicinity,' in the words of the conventions" ([b] 779).

Perry argues that,

> Notwithstanding the overall appearance of the Arctic Islands, the Islands do not resemble the intricate matrix of reefs, inlets, and fjords, which necessitated that Norway draw straight coastal baselines; Canada could establish traditional baselines with much less effort than Norway. As well, Canada's boundaries are also far longer than those drawn by Norway and depart a great distance from the general direction of the mainland (664).

Both Pharand and Scovazzi agree that the consideration of the Archipelago as a 'fringe of islands' in the vicinity of the mainland is questionable. Scovazzi argues that the Canadian claim of straight baselines in the Arctic Archipelago is better justified

through its geographical features, such as the deep indentations which are present in most of the Arctic islands (80). Indeed, McRae also points out that, "the highly irregular and indented nature of the coastline and islands lead to the conclusion that this is almost a classic case for departure from the low-water line rule" ([b] 433). The Canadian Arctic Archipelago is "nothing more than the Norwegian *skjaergaard* writ large" (McRae[a] 483).

Pharand admits that, while the Archipelago cannot be described as a simple 'fringe' of islands in the literal sense, it nonetheless forms a single unit bordering the northern coast of Canada and is an "intregal part of the coast" ([a] 178). As well, a literal translation 'fringe of islands along the coast' does not agree with the straight baseline practice of some 18 other 'coastal Archipelagos' whose coastlines form a dubious 'fringe' of islands. Pharand explains that, "the Canadian Arctic Archipelago presents unique geographic characteristics, making it absolutely impossible to follow the sinuosities of the coast or of the islands in the measurement of territorial waters and rendering the use of straight baselines necessary" ([a] 161).

Distance from the Coast and Cohesiveness

As outlined previously, there are two main legal factors to be considered in determining the legal legitimacy of establishing straight baselines. These include the distance of the archipelago from the coast, and the cohesiveness of the archipelago itself. More specifically, the Archipelagic islands

(a) must not depart to a significant extent from the general direction of the coast.
(b) must be linked closely to the land and account for the economic interests

of the region sought enclosed (UN[e] Art. 7).

Most legal authorities maintain that these qualifications are indeed present. According to Scovazzi, the Arctic Archipelago consists of a "block of thousands of islands (73 major islands and 18,114 other islands) located at a close distance one from the other" (81). This high degree of compactness between the islands themselves as well as the closeness to the continental coast can be considered as "representing the general direction of the coast" (Scovazzi 81). Pharand agrees that the first factor is undeniably present. Not only are the islands in the immediate vicinity of the coast, but the coast itself, physically penetrates itself into the heart of the archipelago ([b] 779). Pharand argues that since the Archipelago is of a unique triangular shape, the "only possible general direction which straight baselines can follow, after reaching the entrance of Amundsen Gulf, is that of the outer line of the Archipelago itself" ([a] 162). Furthermore, Pharand makes the argument that the International Court was willing to adapt the law to in 1951 when the low-water mark could not be applied to the Norwegian coast. Thus, it is not overly presumptuous to assume that the Court would be willing to adapt the guidelines in consideration of the particular shape of the Canadian Archipelago since the first stipulation for the application of straight baselines is not completely appropriate for the Canadian situation even though the Canadian Archipelago is very similar in character to the Norwegian skajergaard in other regards ([a] 162-163). Johnston also mentions that this issue is complicated by the irregular practice of other States, to the point where 'general direction' may be considered "dead letter in

international law" (148).

The second factor – the cohesiveness of the islands – is also present. Killas reports that, "the Arctic Archipelago, when viewed on a large-scale chart, does appear to form a coherent, triangular, frozen unity" (114). Indeed, even Perry, a sceptic of Canadian claims, acknowledges the fact that the enclosed waters are covered with thick pack-ice for seven months of the year is likely to fulfill the requirement of linkage more than satisfactorily (664). Pharand also relates that, "[t]he geographic unity of the Archipelago is further assured by the string of closely spaced islands across the Parry Channel, linking the northern section with the southern one and forming a single unit" ([b] 779). The unity of these two island groups is strengthened both geographically and geologically in that a mountain range extends from the northern tip of Ellesmere Island to the southern tip of Baffin Island. The same numerous bays and fjords are exhibited along the coastlines of both groups of islands (Killas 114).

A comparison of the Canadian Arctic Archipelago to the Norwegian Archipelago is useful at this point. The ICJ judged it necessary that the sea areas be "sufficiently closely linked to the land domain to be subject to the regime of internal waters" ([b] 133). The sea to land ratio in the Canadian Archipelago is 0.822 to 1, as compared to the Norwegian Archipelago which is 3.5 to one (Killas 114). In addition to this close ratio, the presence of the 23,000 Canadian Inuit who subsist by fishing the Arctic basically assures Canada's compliance with the specification that straight baselines be drawn respectful of economic interests (664). Perry acknowledges, "[w]hile it is nebulous

whether Canada's boundaries are sustainable at law, a successful legal claim may fall under considerations of public policy" (Perry 664).

As seen in the case of Norway, the Court was liberal in its application of straight baselines to two more geographically troublesome areas, the Lophavet and the Vestjorden. Similarly, this flexibility should allow for the enclosure of the waters of Amundsen Gulf and Parry Channel (Pharand[a] 163). This enclosure is also strengthened by consideration of the economic interests of the area; particularly of the Inuit people who depend exclusively on fishing, hunting and trapping in these water areas and have done so since time immemorial (Pharand[a] 178).

However, it is important to note that in Anglo-Norwegian Fisheries case, the ICJ stated that the "delimitation of sea areas cannot be dependent merely upon the will of the coastal state as expressed in its municipal law" ([b] 132). Perry points out that the drawing of Canada's straight baselines can be viewed as 'reactionary politics' in response to challenges to Canadian Arctic sovereignty (664). This type of reaction presents a difficulty as the straight baselines appear to have "been implemented for the exact use the Court was attempting to deter" (Perry 664).

Although the drawing of straight baselines around the Canadian Arctic Archipelago was protested by some States, the matter was not taken to the International Court of Justice, "an option that Canada had expressly invited by removing its 1970 reservation to the Court's jurisdiction" (McRae[b] 483). Neither Canada nor the United States seem interested in immediately resolving the issue of the legal status of the

Northwest Passage through international adjudication (Johnston 148).

Consolidation of Title

According to Pharand, Canada may invoke a historical consolidation of title as an additional basis to the straight baseline system for claiming internal waters for the waters of Lancaster Sound and Barrow Strait in the east and Amundsen Gulf in the west ([a] 178). This title "arises out of the exercise of legislative and administrative jurisdiction by Canada for about 80 years as well as the general toleration of States" (Pharand[a] 179). The American protest in 1970 to Canada's extension of territorial waters to 12 miles as well as to the Arctic waters pollution prevention legislation extending 100 miles from the coast could not be considered an adequate counter to a Canadian consolidation of title for two reasons: firstly, a 12-mile territorial sea is now "unquestionably permitted by customary international law" (Pharand[a] 174) and secondly, "the validity of the pollution prevention legislation has been confirmed internationally by the 'ice-covered areas' provision of the 1982 Law of the Sea Convention" (Pharand[a] 174). The purpose of consolidation of title is to protect vital Canadian interests in these marine areas, including the traditional livelihood and culture of the Inuit, protection of the unique Arctic environment, and the security of Canadian territory (Pharand[a] 179).

Rights of Passage

Before the establishment of straight baselines in Canada's Arctic Archipelago in 1985, the waters of the Northwest Passage were subject to the right of innocent passage due to the 12-mile territorial waters extension in 1970, which placed the Passage within the realm of both Canadian territorial waters and high seas (Killas 130). The

International Court ruled, in 1951, that Norway's waters landward of the straight baselines were considered internal and no right of innocent passage applied ([b] 132). Pharand thus concludes that, "Canada has validly drawn straight baselines around the Canadian Arctic Archipelago, with the result that the enclosed waters, including those of the Northwest Passage, have the status of internal waters" ([a] 252). Since historic evidences are included among the criteria necessary for straight baselines, "it is not entirely inappropriate to consider these ocean areas as 'historic internal waters' as designated by the Canadian government (Johnston 148).

The 1958 Convention and UNCLOS III, however, modified the status of newly enclosed waters by making the enclosed waters subject to the right of innocent passage, if they were previously territorial waters or high seas (UN[e] Art. 8). Perry argues that,

> ...this limitation necessarily disqualifies Canada's claim to sovereignty over the Arctic islands because foreign vessels are assured free transit within the baselines. Thus, in order to negate the right of innocent passage, Canada will have to rely on something other than the straight baselines and the subsequent internal waters which they have recently established in the Arctic" (665).

The Conventions, however, do allow for the possibility of internal waters if the "sea areas are sufficiently closely linked to the land domain" (UN[e] Art. 7). Thus, Pharand maintains that since January 1986, the Northwest Passage has become a national sea route ([a] 256).

While the above arguments seem fairly strong in favor of Canada having a valid case for the drawing of straight baselines, because of its unique geographical, economic and ice-covered situation, the resulting status of the waters is more questionable.

Certainly, the sea to land ratio of the Arctic Archipelago indicates a closer relationship than that of the Norwegian skjaergaard, which should allow for a claim for 'internal' waters. The difficulty, however, lies with the change in the status of these waters as presented in the 1958 Convention, as well as UNCLOS III, which produces a certain amount of uncertainty in regards to the resulting status of the waters of the Northwest Passage. Pharand, however, argues that previous ICJ decisions indicate that "it is highly unlikely that the Court would hold that Article 5 of the Territorial Sea Convention has become binding on all States on the basis of a newly created customary law" ([a] 229). Nonetheless, the modifications regarding the status of the newly enclosed waters casts considerable doubt as to whether Canada's claim of 'internal waters' by reason of the application of straight baselines is viable.

International Straits: The International Argument

The United States and the European Union currently maintain that the Northwest Passage is an international strait, the U.S. claiming that the International Court of Justice ruling of 1951 in the case of the Strait of Corfu is applicable to the Northwest Passage (Huebert[a] 6). The U.S. respects Canada's claim to sovereignty over the islands of the Arctic Archipelago but does not recognize Canada's sovereignty over the Arctic waters (Killas 99). The argument is that the Northwest Passage joins two international bodies of water and has been used for international shipping, although the number of actual transits remains small (Huebert[a] 6). Both the 1958 and the 1982 Conventions support the international argument in that they both contain articles which outline the critical geographical criterion of an international strait, that is, straits joining parts of the high

seas or exclusive economic zones (UN[f] Art. 16; UN[e] 37). The status of international strait would allow ships of all nations the right to pass through the Northwest Passage "unchallenged and unrestricted" (Killas 99). The European Community issued a "diplomatic protest against Canadian efforts in 1985" after Canada enclosed the Arctic Archipelago using straight baselines, but have taken a "low-key position", allowing the Americans to take a more active role (Huebert[a] 7).

The Canadian approach to maintaining sovereignty over these waters has been primarily a functional one, in that Canada has exercised authority where and when it has appeared necessary. Historically, the United States has been the greatest challenger of Canadian claims to Arctic sovereignty. In 1969, the voyage of the American oil tanker *Manhattan* through the Northwest Passage led to the Canadian government's adoption of the Arctic Waters Pollution Prevention Act under which "Canada asserted the jurisdiction necessary to control future tanker traffic through the Northwest Passage" (McRae[b] 431). In 1985, the American ice breaker *Polar Sea* traversed the Northwest Passage without the Canadian government's permission, which ultimately created a significant diplomatic dispute (Huebert[b] 365). Then, in 1988, the Arctic Cooperation Agreement was reached between Canada and the United States which requires the United States to request permission of the Canadian government before any future transits by American icebreakers. Interestingly enough, both governments "agreed to disagree on the actual status of the Passage" (Huebert[a] 6).

The primary issue between the above mentioned States is one of control. If the Passage is viewed as Canadian internal waters, Canada has control over all activities,

both foreign and domestic which occur in these waters. If, however, the Passage is deemed an international strait, Canada cannot maintain control of shipping within these waters and would be "unable to deny passage to any vessel that meets international standards for environmental protection, crew training and safety procedures" (Huebert[a]7). Thus, a ruling that Arctic waters are international would be detrimental to Canadian sovereignty over the region. With the designation of 'international strait' comes the right of 'transit passage'; a far less restrictive right for foreign vessels than that of 'innocent passage' (UN[e] Art. 38). International waters are free of *any* restriction, including their use by aircraft and submarines (Perry 678). With the right of transit passage, the coastal state is prevented from impeding "continuous and expeditious" transit by foreign vessels (UN[a] Art. 38), unlike internal waters, in which a nation exercises absolute sovereignty and control, or territorial waters which are freely navigable but subject to the regulations of the host nations (Perry 678). However, even under the designation of international strait, Canada could invoke higher standards for "the preservation, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, under Article 234 of UNCLOS III" (UN[e]).

Qualifications for an International Strait

In order to qualify as an international strait, a waterway must fulfill certain legal criteria (Perry 678). While UNCLOS III does not define an international strait, per se, Article 37 mentions that transit passage applies to "straits which are used for international

navigation, between one part of the high seas or an exclusive economic zone and another part of the high seas or an exclusive economic zone" (UN[e]). This statement, in effect, defines an international strait.

The *Corfu Channel Case* of 1949 provides the strongest legal precedent for the definition of an international strait. In this case, the International Court of Justice ruled that two criteria need to be met before a waterway could to be considered international strait. These criteria are geographical and functional. The geographic requirement involves a strait which is "connecting two parts of the high seas" (ICJ[c] 28).

Functional requirements are less clear. The International Court of Justice ruled in the *Corfu Channel Case* that it had been a "useful route for international maritime traffic" (ICJ[c] 28). In that case, there had been 2884 crossings in a 21 month period by vessels from some seven States and that the British Navy had used this channel for about 80 years. The court also maintained that it was not decisive that the Strait was "not a necessary route between two parts of the high seas, but only an alternate passage" ([c] 28).

It is generally acknowledged that token use is insufficient and that "actual use and some kind of widespread interest in continuing use" is necessary (McRae[b] 434). The sufficiency of the route should be determined by the number of transits as well as the number of States represented, however in some particular circumstances, lower numbers of transits and flags represented may be sufficient (Pharand[a] 220-221). McRae also points out that, potential use "does not constitute it an international strait" (McRae[b]

434).

While Baxter argues that "the test applied by the Court lays down more emphasis on the practices of shipping than on geographic necessities" (4-5), a close examination of the Judgement reveals that the Court states the opposite:

> It may be asked whether the test is to be found in the volume of traffic passing through the Strait or its greater of lesser importance for international navigation. But in the opinion of the Court the decisive criterion is rather the geographical situation as connecting two parts of the high seas and the fact of its being used for international navigation (ICJ[c] 28).

Is the Northwest Passage an International Strait?

In examining the Northwest Passage, there is little doubt that it meets the geographical requirements of an International Strait. McRae acknowledges that, "it is a body of water joining two oceans or two areas of high seas ([b] 434).

The functional criteria, however, is more difficult to assess. According to the ruling in the *Corfu Channel Case* an International Strait must have been a useful route for international maritime traffic evidenced by a significant number of ships having traversed the strait, as well as a number of different flags represented (ICJ[c] 28). The Court noted that, "2884 ships for a period of one year and nine months is quite a large figure" ([c] 29). As previously reported in Chapter II, until about 1985 only 45 complete transits of the Northwest Passage were made within an 80 year period, 29 of which were made by Canadian ships. Of the 16 foreign crossings, 11 were American, 1 Norwegian, 1 Dutch, 1 Japanese, 1 Bahamian, and 1 Liberian. The Japanese and Dutch crossings were for adventures and the Bahamian and Liberian crossings were pleasure cruises (Pharand[a]

224). Except for the discovery crossing by Amundsen and possibly the American *Polar Sea* crossing, all others requested Canadian permission (Pharand[a] 224). More recent information indicates that there were 109 complete transits of the Northwest Passage between 1903 and 1998, of which 40 were made by Canadian vessels (Barrera 1). Although the Arctic serves a vital defense communications function from CFS Alert, this information link is maintained by satellite relay and is in no way dependent upon marine transportation (Perry 678).

While traffic appears to be increasing in the Northwest Passage, it is still incomparable to the 2884 vessels required within a 21 month period stipulated by the *Corfu Case*, therefore, it seems fairly unlikely that the Northwest Passage could be classified as an International Strait today. Johnston also concludes that, "[g]iven the relative infrequency of transits on the public record, the Northwest Passage would not seem to be easily categorized as an international strait" (148). Since the Arctic Cooperation Agreement, there should be no further American transits without the Canadian government's permission. Should the *Polar Sea* incident be viewed as a precedent, it is not more than one isolated incident (McRae[b] 435). Johnston also argues that,

> Consented transits are more common now than in the past, but the granting of consent by Canada implies that consent is necessary and that such transits cannot proceed as a matter of right as they would if the Northwest Passage were conceded to have the status of an international strait (148).

The general consensus of most legal authorities appears to be that these waters do

not qualify for this application. The fact that the Court considers the geographic requirement to be the decisive criteria, along with the fact that it has been used for international navigation, however, leads one to believe that smaller amounts of international traffic could suffice in a judgment in favor of the Northwest Passage being designated an international strait.

The possibility of the Northwest Passage becoming an international strait in the future depends on the amount and control of international shipping which will take place in the Passage. Pharand warns that, a "pattern of international shipping across the Passage, developed over relatively few years, might be held sufficient to make it international" ([a] 230). If this were to hold true, and the passage were to become designated as an International Strait, the new right of passage as defined in the 1982 Convention, 'transit passage' to all ships, including warships, would apply to the Canadian Northwest Passage (Pharand[a] 230). Thus, Canada's sovereignty over the waters of the Passage would be limited to establishing regulations through Article 234 of UNCLOS III which addresses the pollution of the marine environment in ice-covered areas (UN[e] Art. 234).

Analysis and Future Vulnerability

Canadian claims to sovereignty over the waters of the Northwest Passage appear to be 'shaky' at best. The early Canadian claim of 'historic internal waters' does not meet the stringent requirements of international law and therefore is not a valid foundation for a claim of sovereignty over the waters of the Northwest Passage. While the drawing of straight baselines around the Arctic Archipelago in 1985 appears to be

"well-founded in law" (McRae[a] 439), the unclear result in regards to the status of the waters, leads one to imagine that Canada's efforts to enclose the Archipelago with straight baselines may well have been in vain. Although Canada claims these waters to be 'internal', as those of the Norwegian *skjaergaard*, UNCLOS III deems them to be subject to the 'right of innocent passage' if they were previously considered so before the enclosure by straight baselines (UN[e] Art. 8). If the Northwest Passage is not immediately considered to be an international strait by the Court, the possibility of it becoming so will likely be imminent, as the melting ice permits an increase in international maritime traffic (Reid 134-135). It must be noted also, that once this possibility becomes a reality, the new regime of 'transit passage' will negate all previous claims to Canadian sovereignty over the waters of the Passage, whether they are considered historical internal waters by reason of historic title or straight baselines, since both air and naval traffic, warships included, can proceed "unimpeded" (UN[e] Art. 38), as long as maritime regulations are met. Huebert goes as far as to question whether it would really matter if Canada lost an international challenge to its claim of sovereignty and states that regardless, with Article 234 of UNCLOS III in place, Canada has the right to pass stringent environmental regulations which would ultimately control marine traffic ([a] 10).

McRae points out that Canada's present claim to sovereignty is not secure for three reasons. Firstly, the claim itself has not been tested in international court; secondly, it cannot be said that the Canadian position has been totally acquiesced by other States,

particularly the United States; and thirdly, subsurface transit may have deeper implications than surface transit (McRae[b] 435).

It is generally acknowledged that subsurface transits occur in the Northwest Passage, although the exact numbers are not known (McRae, Sov. 436). Huebert reports that both American and Soviet nuclear powered submarines entered Canadian Arctic waters during the Cold War (cited in [c] 9). To be sure, this occurrence casts serious doubt as to Canadian claims of exercising sovereignty in Arctic waters, especially since submarines are undoubtedly military vessels. Subsurface transits could bolster the argument that the Passage was being used for international navigation (McRae[b] 437). McRae further explains that,

> ...failure to take any steps at all to become aware of subsurface transit of the Northwest Passage would cast doubts on the seriousness of Canada's sovereignty claim and could, in the long term, contribute to a perception that it has been abandoned ([b] 438).

Conservative Government Advances

It seems that the Canadian government under Harper is certain taking steps to live up to this challenge. The Conservative government's plan includes:

- Stationing three new armed ice breakers to be made in Canada
- Building a new Arctic army training centre in the area of Cambridge Bay on the Northwest Passage.
- Stationing new fixed-wing search-and-rescue aircraft in Yellowknife (Harper Pledges 1).

Although Huebert argues that "[i]t is becoming apparent that the Canadian position will probably not be successful given the current low levels of Canadian activity in the region" ([a] 11), the new increased capabilities may increase our chances.

Furthermore, Huebert states that the,

> ...voluntary nature of NORDREG poses an obvious challenge to Canada's commitment to its claims. If Canada is serious about its statements that the waters of the Arctic Archipelago are internal waters, then there should be no question about its ability to enforce its rules and requirements ([a] 8).

However, "even if Canada dedicates a tremendous effort to reinforcing its surveillance and enforcement capability in this region, there is no guarantee that it would win" in the International Court of Justice (Huebert[c] 6). Since the ICJ tends to be conservative and unpredictable in its judgments, Canadian officials must consider if the effort to maintain sovereignty is "worth the costs" (Huebert[c] 7). Thus, the "real issue" is not one of sovereignty for its own sake, but is "about the development of a shipping regime that will best serve Canadian interests" (Huebert[c] 5). However, developing a shipping regime necessitates a means by which to monitor the regulations which will be put in place, thus Canada at some point will be forced to upgrade its surveillance and enforcement capabilities, as it is currently doing.

In the future, Canada will undoubtedly be faced with resolving the issue of claims of sovereignty in the waters of the Northwest Passage. What remains of Canadian sovereignty will ultimately be decided by the International Court, it would, therefore, probably be in Canada's best interests to use Article 234 of UNCLOS III to her best ability in order to protect Arctic interests, such as the fragile environment and the Inuit people, while benefiting economically from increased activity in the area. However by enforcing a strong Canadian presence in the north, and using our academic resources to structure a shipping regime that takes Canadian sovereignty and environmental factors

into account, we will almost certainly have both bases covered in the event of a ruling by the ICJ which is not in favour of the Canadian position.

Conclusion

It is important to note that the three areas of Canadian policy that I have chosen to address are merely a few among many possible policy areas that Canada might chose to create or reformulate its image and global position with. These particular policy areas were chosen with a number of crucial reasons in mind, however they are merely meant to be a small sample of what Canada could possibly do in these areas, rather than an inclusive study of the future of Canadian foreign policy objectives. It is my argument that each of these three issues has currency and relevance in both Canada and the framework of the world today. Terrorism and security are, arguably, two of the most predominant political issues in North American today and simply *must* be addressed if Canada-U.S. relations are on the discussion table. As has been argued in Chapter 1 and 2, it is my belief that Canada must both strengthen its border security arrangements with the United States, while at the same time attempting to distance ourselves from American foreign policy actions that are not compatible with what we as Canadians perceive to be our humanitarian or more internationalist or multilateralist foreign policy agenda. Canada's *image*, or the way Canada is perceived as an internationalist player must be re-formulated and strengthened in the international community in order to help deal with the issue of security and terrorism in today's world. Furthermore, the issue of foreign aid is a distinctly 'Canadian' issue that is both tightly tied to our own self-image as well as the image we like to portray to the rest of the world. Rightly or wrongly, we tend to view ourselves, and have others view us as benevolent caretakers of the less fortunate. Lately, however, due to the decline of Canadian peacekeeping, and our poor example with regard to foreign aid disbursements despite our rhetoric to the contrary, this image has become

increasingly tattered. This decline in the Canadian image has led some, such as Jennifer Welsh to question the link between our foreign policy (or how our foreign policy objectives are perceived globally) and the threat of terrorism to our nation. How do the perceived values and objectives behind our foreign policy affect our security as a nation? As Welsh stresses, "values and purpose have become all important in our post-9/11 world. People want to know what we stand for" (Welsh, 159). Image management is thus of vital importance in this age where global flows of ideas, resources, and people can allow virtually any individual or group to lash out with 'terrorist-style' attacks against targets that might be perceived as an enemy. The fourth chapter's concentration on the issues surrounding the Northwest Passage was included because of its looming presence on the horizon of Canada-U.S. relations. The Northwest Passage is becoming increasingly viable as a northern international shipping route due to the processes and ecological effects of global warming. By preparing options to address this issue before it becomes a pressing case, Canada stands to attain a stronger legal and international position on this issue. Additionally, seeking pro-active solutions rather than reactive ones allows Canada to steer this issue in the direction that best serves Canadian interests, and further projecting an image to the world of a state that is willing and capable of standing up to the direct interests of the American hegemon – thus publicly illustrating a disconnect between the interests and policies of our two countries. This argument runs parallel to Jennifer Welsh's suggestion that Canada strive to become a 'model citizen' for the twenty-first century. She goes on to elaborate that her vision for Canada's future "entails modeling, for other countries around the world, what those rights and duties entail within the global community. But it also involves other attributes of citizenship,

such as exercising self-restraint in terms of how we use common resources" (p190).

Not only will the foreign policy objectives outlined in this paper further elicit the beginning of a Canadian foreign policy that is more independent from American influence, they will hopefully provide the confidence to both Canadians and our politicians that in the current global framework of multilateral, legally binding institutions, we truly do have the freedom to create the Canada that we want to, and do our part to influence the world in a more Canadian, less conflictual direction. Above all, by extracting ourselves from under the thumb of American policy, we as a country stand to gain a great deal in the way of respect within the international community, greater security within our own country from the discontents of the global south, and the confidence to continue along a more principled, less self-conscious foreign policy path in the future. Furthermore, as Michael Ignatieff suggests,

> "[i]n our relations with the Americans, we have to understand this. We have something they want – they need legitimacy…So we have legitimacy to sell. And if we have legitimacy to sell then we shouldn't sell it cheap, we should be proud of what we bring to the table and we should tell the Americans: 'If you want our support, here are the conditions' (36).

We must be aware of our assets as a country, and be willing to use these assets to our benefit. The United States is currently facing a crisis of legitimacy, while Canada is not. We must use this asset of 'legitimacy' wisely, but be aware that in order to maintain our legitimacy as a country, we must be cautious about what international policies we are willing to endorse. Furthermore, if we want to maintain our legitimacy as a multilateralist, and if we want to keep any of the

promises that we are making to ourselves in the mirror and to people overseas, we must be willing to sufficiently fund these actions (Ignatieff 38-39). If we are unwilling to properly fund both our military, and our overseas endeavours, "our diplomatic credibility, increasingly uncertain even now, will go into a free-fall" (Stairs 18). As Stairs aptly points out, "there may be an argument on national interest grounds for doing less. There may be an argument on both national interest and moral grounds for doing more. But there is no argument on either ground for *doing* less while *claiming* more, for speaking loudly and carrying a bent twig" (Stairs 18). If these policies are to be effective, and Canadian security reinforced in this, our *first* priority before we make grandiose declarations, must be a federal guarantee of adequate funding, coupled with a realistic assessment of our practical abilities, and a firm grasp of the internationalist values we wish to endorse as a country.

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